



TUALATIN CITY COUNCIL

Monday, OCTOBER 8, 2018

JUANITA POHL CENTER

8513 SW Tualatin Road

Tualatin, OR 97062

WORK SESSION begins at 5:00 p.m.
BUSINESS MEETING begins at 7:00 p.m.

Mayor Lou Ogden

Council President Joelle Davis

Councilor Robert Kellogg
Councilor Paul Morrison

Councilor Frank Bubenik
Councilor Nancy Grimes

Councilor Jeff DeHaan

Welcome! By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for your comments on its agenda, following Announcements, at which time citizens may address the Council concerning any item not on the agenda or to request to have an item removed from the consent agenda. If you wish to speak on a item already on the agenda, comment will be taken during that item. Please fill out a Speaker Request Form and submit it to the Recording Secretary. You will be called forward during the appropriate time; each speaker will be limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City website at www.tualatinoregon.gov/meetings, the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised *live* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at www.tvctv.org. Council meetings can also be viewed by live *streaming video* on the day of the meeting at www.tualatinoregon.gov/meetings.

Your City government welcomes your interest and hopes you will attend the City of Tualatin Council meetings often.

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A **legislative** public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *deny*, or *continue* the public hearing.

PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A **quasi-judicial** public hearing is typically held for annexations, planning district changes, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report.
3. Public testimony is taken:
 - a) In support of the application
 - b) In opposition or neutral
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *approve with conditions*, or *deny the application*, or *continue* the public hearing.

TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

EXECUTIVE SESSION INFORMATION

An Executive Session is a meeting of the City Council that is closed to the public to allow the City Council to discuss certain confidential matters. An Executive Session may be conducted as a separate meeting or as a portion of the regular Council meeting. No final decisions or actions may be made in Executive Session. In many, but not all, circumstances, members of the news media may attend an Executive Session.

The City Council may go into Executive Session for certain reasons specified by Oregon law. These reasons include, but are not limited to: ORS 192.660(2)(a) employment of personnel; ORS 192.660(2)(b) dismissal or discipline of personnel; ORS 192.660(2)(d) labor relations; ORS 192.660(2)(e) real property transactions; ORS 192.660(2)(f) information or records exempt by law from public inspection; ORS 192.660(2)(h) current litigation or litigation likely to be filed; and ORS 192.660(2)(i) employee performance of chief executive officer.



OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL MEETING FOR OCTOBER 8, 2018

A. CALL TO ORDER

Pledge of Allegiance

B. ANNOUNCEMENTS

1. Update on the Tualatin Youth Advisory Council's activities for October, 2018
2. Proclamation Declaring Intent To Participate In The Great Oregon Shakeout And Work Toward Becoming A Safer Community
3. New Employee Introduction- Kyla Cesca, Office Coordinator

C. CITIZEN COMMENTS

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

1. Consideration of Approval of the Minutes for the Work Session of September 10, 2018 and Work Session and Regular Meeting of September 24, 2018
2. Consideration of Approval of a New Liquor License Application for Baja Fresh Mexican Grill
3. Consideration of **Resolution No. 5402-18** Authorizing the City Manager to Execute an Amendment of a Professional Services Contract with Murray, Smith, and Associates, Inc. for Additional Services on the Water Master Plan
4. Consideration of **Resolution No. 5403-18** Awarding Fiscal Year 2018/2019 Outside Agency Grant Funds to Provide Social Services to Residents of Tualatin

E. SPECIAL REPORTS

1. Update on Programs and Activities Offered this Summer by the City of Tualatin and its Partners, and a Preview of Fall Programs

F. PUBLIC HEARINGS – Legislative or Other

1. Consideration of Plan Text Amendment 18-0002A to amend Tualatin Development Code Chapter 70 Flood Plain District to Meet Minimum National Flood Insurance Program Requirements

G. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

1. Consideration of **Ordinance No. 1413-18** Relating to the Floodplain District; and Amending Tualatin Development Code Chapter 70 to Adopt Federal Emergency Management Agency Requirements for Development of the Floodplain
2. Consideration of a Three City Agreement Regarding Concept Planning in Stafford
3. Consideration of **Resolution No. 5404-18** Accepting the Resignation of Jeff DeHaan from City Council and Declaring City Council Position #3 Vacant

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

I. COMMUNICATIONS FROM COUNCILORS

J. ADJOURNMENT

City Council Meeting

Meeting Date: 10/08/2018

ANNOUNCEMENTS: Tualatin Youth Advisory Council Update

ANNOUNCEMENTS

Update on the Tualatin Youth Advisory Council's activities for October, 2018

A. YAC Update

October 8, 2018

Tualatin Youth Advisory Council

Youth Participating in Governance



West Coast Giant Pumpkin Regatta

- Saturday, October 20
- Crafts, pumpkin carving, pumpkin bowling, face painting
- Proceeds help fund NLC trip in March!



Haunted House



Haunted
Homecoming

- October 24-27
- Van Raden
Community Center

Haunted House



- October 24-27
- 7:00-10:00pm (9-11 on Friday)
- Van Raden Community Center
- \$4 youth/student
- \$5 adult

A night to
die for



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Kathy Kaatz, Program Coordinator
Bates Russell

DATE: 10/08/2018

SUBJECT: Proclamation Declaring Intent To Participate In The Great Oregon Shakeout And Work Toward Becoming A Safer Community

ISSUE BEFORE THE COUNCIL:

Staff will provide City Council with a brief update on the work of the Emergency Management Team and is requesting that Council read the Proclamation for the Great Oregon Shakeout which is occurring on October 18, 2018 at 10:18 am.

RECOMMENDATION:

Staff recommends that City Council read the Proclamation for the City's participation in the Great Oregon Shakeout on October 18, 2018 at 10:18 am.

Attachments: 1-A. Great Oregon Shakeout Proclamation
1-B. Emergency Management Update

Proclamation

Declaring Intent to Participate in The Great Oregon Shakeout and Work Toward Becoming a Safer Community

WHEREAS, The City of Tualatin recognizes that no community is immune from natural hazards – whether they are earthquakes, wildfires, floods, or winter storms – and recognizes the importance of enhancing its ability to withstand natural hazards as well as reducing the human suffering, interruption of public services and economic losses caused by those hazards; and

WHEREAS, major earthquakes pose a particular and ongoing threat to the entire region; and

WHEREAS, The City of Tualatin has a responsibility to promote earthquake preparedness internally as well as with the public and to plan appropriately for earthquake-related disasters, including ensuring the continuity of government; and

WHEREAS, The City of Tualatin can utilize the information on www.ShakeOut.org/oregon to educate employees and residents regarding actions to protect life and property, including mitigating structural and non-structural hazards and participating in earthquake drills; including The Great Oregon ShakeOut on October 18th, 2018 at 10:18 a.m., and

WHEREAS, the entire Tualatin community can participate in The ShakeOut's "Drop Cover and Hold on" earthquake drill at their homes sometime during October 18 and encourage their family, friends and neighbors to prepare for earthquakes as well.

NOW THEREFORE BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, that we hereby supports participation in The Great Oregon ShakeOut by taking time to recognize and acknowledge the importance of preparing our County for the purposes of building a safer community and reducing the loss of lives and property from a major earthquake event by taking proactive steps today.

INTRODUCED AND ADOPTED this 8th day of October, 2018.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

Emergency Management Update

Emergency Management Activities

Recent Activities

- ▶ September - National Preparedness Month
Theme - *Disasters Don't Plan Ahead . You Can*
- ▶ Great Oregon ShakeOut - October 18, 2018 @ 10:18
Proclamation tonight
- ▶ Emergency Management Team
- ▶ Continue working with Regional Groups Emergency Management Cooperative (EMC) and Washington County Citizen Corp Group (WCCCG)
- ▶ Tualatin CERT



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Nicole Morris, Deputy City Recorder

DATE: 10/08/2018

SUBJECT: Consideration of Approval of the Minutes for the Work Session of September 10, 2018 and Work Session and Regular Meeting of September 24, 2018

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the Work Session of September 10, 2018 and Work Session and Regular Meeting of September 24, 2018.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

Attachments: [City Council Work Session Minutes of September 10, 2018](#)
[City Council Work Session Minutes of September 24, 2018](#)
[City Council Regular Meeting Minutes of September 24, 2018](#)



Present: Mayor Lou Ogden; Councilor Frank Bubenik- via phone; Council President Joelle Davis; Councilor Nancy Grimes; Councilor Paul Morrison; Councilor Jeff DeHaan; Councilor Robert Kellogg

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele; Finance Director Don Hudson; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Assistant to the City Manager Tanya Williams; Management Analyst II Kelsey Lewis; Parks and Recreation Manager Rich Mueller; City Engineer Jeff Fuchs; Management Analyst II Garet Prior; Management Analyst II Nic Westendorf; Parks and Recreation Director Ross Hoover; Planning Manager Steve Koper

CALL TO ORDER

Mayor Ogden called the meeting to order at 5:05 p.m.

1. ***Region-wide Housing Bond.***

Metro Housing Authority Director Komi Kalevor and Metro Housing Development Manager Shannon Wilson presented information on the Metro Regional Housing Bond. Director Kalevor provided background information on the housing authority and its role in the community. He stated the department provides section 8 rental assistance vouchers, affordable housing units, facilitates continuum of care with Washington County and provides workforce programs. Definitions for affordable housing and low income were provided. Director Kalevor stated every five years the department works on a consolidated plan for the region. He stated the 2015-2020 plan identified a need of 14,000-23,000 units serving households at or below 50% the area median income.

Director Kalevor spoke to the Regional Housing Bond. He stated the bond would bring in \$652.8 million dollars in proceeds to be used in Washington, Multnomah, and Clackamas Counties. The goal of the bond would be to provide 3,900 units of housing throughout the region. Washington counties share would be 1,300 units. The proposed cost to taxpayers would be 24 cents per \$1,000 of assessed value. Director Kalevor spoke to the framework of the bond. He stated it would be lead with racial equity by creating housing in neighborhoods historically not accessible to communities of color. It was noted that of the bond proceeds \$184.3 million would be used in Washington County with a goal of 1,435 units being created.

Director Kalevor stated in addition to the Regional Housing Bond, Metro is proposing a constitutional amendment that would allow municipal bond revenue to fund privately owned affordable housing amendments. This would allow funds to be leveraged with private debt and other sources.

Councilor Kellogg asked if the housing authority had studied development in Tualatin. Manager Wilson stated there are not sites in Tualatin on the feasibility list at this time.

Councilor Kellogg asked how much of the bond funds would be used for administration. Director Kalevor stated there is a 5% cap proposed which equates to around \$32.6 million in administration costs.

Mayor Ogden asked how the bonds are issued. Director Kalevor stated each county will make a proposal to an oversight committee and then the funds will be distributed.

Councilor Bubenik asked if the Community Action Organization does intake for these types of programs. Director Kalevor replied they do.

Councilor Bubenik asked if an IGA has been put in place between Metro and the counties for this bond. Director Kalevor stated the IGA would be drafted if the bond passes.

Councilor Kellogg asked if prevailing wages could be waived if the cities directly donated the land. Director Kalevor stated they could not be waived.

Councilor Bubenik stated the chronically homeless do not normally need a section 8 voucher as they have other programs that help them with rental assistance.

Council President Davis asked if there would be any specific funding set aside for people with disabilities. Director Kalevor stated it was not specifically spelled out in the bond.

2. *Standards for Small Cell Facilities in the Right-of-Way.*

Public Works Director Jeff Fuchs, Management Analyst Nic Westendorf, and Project Engineer Casey Fergeson presented information on small cellular. Director Fuchs stated tonight's discussion is on small cell standards and staff will be back at a future meeting to discuss fees. Analyst Westendorf spoke to the timeline on the project. He noted staff has been working with Verizon on developing standards since May. Analyst Westendorf described small cells stating they are devices used to increase coverage capacity in target high traffic areas. He added they also extend coverage in hard to reach locations, are shorter range systems, and compliment macro networks. It was noted the devices also provide updated technology to residents and help eliminate dead zones throughout the city. Engineer Fergeson spoke to design of small cell deployments. He stated they are most commonly placed on street lights and utility poles as they are smaller than traditional sites. Examples of different mountings on utility poles, street lights, and wires were shared. Engineer Fergeson spoke to proposed standards on aesthetics, locations, and preservation of community characteristics. Director Fuchs stated the adopted standards would be incorporated into the Public Works Construction Code and would be applied to all applications.

Councilor Grimes asked about potential interferences from the devices. Director Fuchs stated they will research and bring information back.

Councilor Grimes asked if these are common standards amongst all cellular

providers. Director Fuchs stated the standards match the Oregon Revised Standards and are consistent across the board. They have worked with Verizon as they provide an expert perspective on the devices.

Councilor Morrison asked how PGE fits into this discussion. Director Fuchs stated they will be part of the fee discussion.

Councilor Kellogg asked if this technology is deployed anywhere else. Analyst Westendorf stated the City of Portland is running a pilot program.

Councilor Kellogg asked to have information on health effects from the devices brought back.

Councilor Kellogg asked if the devices would have to be on every pole in town. Director Fuchs stated Verizon originally applied to place 70 devices throughout town.

Councilor Grimes asked if particular areas could make requests for the extended coverage. Director Fuchs stated they would follow-up with Verizon.

3. *Parks System Development Charges.*

Parks and Recreation Director Ross Hoover presented Parks System Development Charges (SDC). He spoke to the process for adopting an SDC. He stated first Council would need to adopt the methodology and then approve the rates by resolution. He stated the rate can be set less than the maximum allowable from the methodology. Adopting rates by resolution would allow Council to change rates without having to change the methodology.

MIG Consultant Cindy Mendoza presented information as requested from Council at the previous work session. She stated the city's planning department confirmed that population and employment data in the methodology were accurate. Consultant Mendoza spoke to questions regarding Tualatin's vacant land for development. She stated there is approximately 1,200 residential units and 440 acres of vacant or redeveloped land available. Consultant Mendoza provided a breakdown of master plan capital project costs vs. projects in the SDC methodology. She stated the master plan total CIP costs is \$215.9 million, the total cost of capacity enhancement projects is \$144.7 million, making the cost of projects included in the methodology \$74 million. She noted not all potential qualifying projects are included in the methodology as they are considered aspirational projects.

Community Attributes Consultant Michaela Jellicoe spoke to policy direction needed from Council. She presented the maximum allowable Park SDC rate per unit of development: \$13,888/dwelling unit and \$2.67/square foot of nonresidential. The recommended approach would be to charge both residential and nonresidential rates to cover the impacts to parks that both create. She added that the advisory committee is recommending to apply SDC charges to nonresidential development. Consultant Jellicoe addressed whether rates should be divided for different uses. She noted the recommended approach would be to have one rate for both residential and nonresidential. She added the city could have multiple rates in both categories if they so choose.

Councilor Kellogg asked why having multiple rates is not preferred. Consultant

Jellicoe stated you have a stronger legal case if you have one rate.

Council President Davis asked if the methodology would be extended to 2035. Director Hoover stated the methodology can be updated as conditions change. Council President Davis asked what the expected frequency for updating is. Consultant Jellicoe stated it is recommended to update the methodology every five years.

Council President Davis asked if council did not include a nonresidential rate if they would have to wait until the next time the methodology is update to incorporate one. Director Hoover stated you could adopt the methodology and set the rate at zero.

Mayor Ogden asked what the process would be if you adopted the methodology and then wanted to modify it. Consultant Jellicoe stated you would want to initiate the full process again and another review period would be required.

Mayor Ogden asked if the methodology is guided by statue. Consultant Jellicoe stated there is regulations in place that allow for modifications to fit each city.

Councilor Morrison asked if there was the ability to have different rates for different types of businesses. Director Hoover stated the initial methodology is set-up as a single fee for a single type use. It is recommended that you use a methodology based approach instead of a policy based approach as it is more legally defensible.

Councilor Morrison asked why there is a rush to have the methodology in place by the end of the year. Director Hoover stated there is no rush, the city would have to offer a new 60 day review period.

Councilor Bubenik agreed the Council should not be in a rush. He would like to look at different rates for different uses.

Council President Davis about the risks associated with different rates. Director Hoover stated good policy guidance and data behind the methodology needs to be in place for the best legal outcome.

Councilor Grimes asked what type of methodology would be needed to support multiple rates. Consultant Jellicoe stated the methodology looks the same they would just need to go back and break it out by rate structures per Council direction.

Councilor DeHaan stated he would like to adopt the methodology as presented.

Councilor Kellogg concurred he would like to see the methodology adopted as presented.

Council consensus was reached to move ahead with the methodology as presented and start the 60 day period. This would allow the Council to have time to come up with clear definitive policy that would substantially determine how to apply rates to specific uses.

4. Council Meeting Agenda Review, Communications & Roundtable.

None.

ADJOURNMENT

The work session adjourned at 7:05 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



Present: Councilor Frank Bubenik; Council President Joelle Davis; Councilor Nancy Grimes; Councilor Paul Morrison; Councilor Robert Kellogg

Absent: Mayor Lou Ogden; Councilor Jeff DeHaan

Staff City Attorney Sean Brady; Finance Director Don Hudson; Deputy City Recorder

Present: Nicole Morris; Assistant to the City Manager Tanya Williams; Library Manager Jerianne Thompson; Parks and Recreation Manager Rich Mueller; City Engineer Jeff Fuchs; Parks and Recreation Director Ross Hoover

CALL TO ORDER

Council President Davis called the meeting to order at 6:02 p.m.

1. ***Parks & Recreation Master Plan Update.***

Parks and Recreation Director Ross Hoover and Parks Planning and Development Manager Rich Mueller presented the final draft of the Parks and Recreation Master plan. Director Hoover stated the draft has been made public. He provided a brief recap of the planning process and how they arrived at the final draft plan. Director Hoover spoke to the plan chapters that included the park and recreation system, community vision, goals, objectives and recommendations, and implementation. Manager Mueller reviewed the public engagement process. The community outreach themes from the public outreach were reviewed. Director Hoover stated the engagement process produced a set of core values, a vision, and a mission that created the draft plan. The draft plan includes seven system wide goals and 53 projects. The projects encompass 37 projects in existing parks and 16 proposed additions or acquisitions. He spoke to funding sources from a variety of areas including capital funding and maintenance and operations funding. Additional funding sources could include property taxes, SDC, transient lodging tax, and grants. Director Hoover spoke to the two-step evaluation process for projects. He explained the goals and priority alignment and sequencing criteria, noting this evaluation helps to inform phasing, development of a work plan, and funding. Manager Mueller spoke to public notification of the draft plan. He stated over the next three weeks staff will be using social media, email notifications, the city's website, and other print media to get the word out. In addition, there will be open houses, stakeholder meetings, online reviews and comment sheets made available for feedback. Director Hoover noted final comments and feedback will be reviewed and incorporated as necessary. Staff will come back to Council the first meeting in November for final review and adoption.

Councilor Kellogg stated he has heard concerns from Basalt Creek residents that a 20 acre park has not been sighted in the plan. He asked what specific outreach has been made to those residents. Director Hoover stated the document is not

prescriptive in what is being planned in that area. He noted when the time comes they will directly engage with those residents on what the park could look like.

Councilor Bubenik asked if the prioritization of the projects has been complete. Director Hoover stated because it is a twenty year plan it is not specifically spelled out. He noted a checklist of projects is included in the CIP projects list for funding.

Councilor Morrison thanked staff for the excellent public outreach on this project. He stated he believes it is a great blueprint for engaging the public on future projects.

Councilor Bubenik stated he received an email from a veterans groups who would like to see a memorial in town. He noted the plan recommends one but has not been sited. Director Hoover stated the plan recognizes the need for a memorial.

Council President Davis asked if the seven listed goals are in any particular order. Director Hoover state all the goals are equally weighted. He stated they are all there to find balance in what they do and the work they accomplish.

Council President Davis asked about the evaluation sequencing process. She asked specifically how many goals have to be checked on a project. Additionally she asked what TPARKs involvement will be with the evaluation process moving forward. Director Hoover stated the more goals a projects meets, the more points it will receive. He stated the role of TPARK and the community will be to help guide the planning process moving forward for each project.

2. *Allocation of Funds to Outside Agencies.*

Council President Davis introduced the allocation of funds to outside agencies. She noted some past recipients did not reapply and should not be considered without a proper application.

Councilor Morrison requested to have funding for the grant program increased. He would like to see an additional \$20,000 come from the Transient Lodging Tax.

Council President Davis stated some of the funds from the Mayor's travel budget could be reallocated to this fund.

After review and discussion, Council determined the award amounts to come forward in a resolution at the next Council meeting.

3. *Council Meeting Agenda Review, Communications & Roundtable.*

Councilor Morris stated the Foundation for Tigard Tualatin Schools will be hosting the Taste of Tigard and Tualatin fundraiser at Ancestry Brewing on September 29.

Council President Davis asked if there was Council consensus for her to bring a proclamation forward for Native American Recognition Day. Consensus was reached to bring back at the next meeting.

ADJOURNMENT

The work session adjourned at 6:44 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR SEPTEMBER 24, 2018

Present: Councilor Frank Bubenik; Council President Joelle Davis; Councilor Nancy Grimes; Councilor Paul Morrison; Councilor Robert Kellogg

Absent: Mayor Lou Ogden; Councilor Jeff DeHaan

Staff Present: City Attorney Sean Brady; Finance Director Don Hudson; Deputy City Recorder Nicole Morris; Library Manager Jerianne Thompson; City Engineer Jeff Fuchs; Management Analyst II Nic Westendorf

A. CALL TO ORDER

Pledge of Allegiance

Council President Davis called the meeting to order at 7:00 p.m.

B. ANNOUNCEMENTS

1. New Employee Introduction- Hayden Ausland, Engineering Associate

Public Works Director Jeff Fuchs introduced Engineering Associate Hayden Ausland. The Council welcomed him.

C. CITIZEN COMMENTS

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

Grace Lucini asked for clarification on meeting noticing for projects involving the Basalt Creek area. She noted Council gave direction at a prior meeting to ensure notices are being sent. Ms. Lucini stated she received notification the listserv for Basalt Creek will no longer be providing notification. In addition, she noted the Basalt Creek website and calendar are not being updated. She requested clarification on how future outreach will be conducted since prior methods are being discontinued.

Kathy Holland announced the Rubber Duck Raffle on behalf of the Tualatin Community Police Foundation. She stated tickets are available on their website and the drawing will be held on October 20.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

MOTION by Councilor Paul Morrison, SECONDED by Councilor Frank Bubenik to adopt the consent agenda.

Aye: Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Paul Morrison, Councilor Robert Kellogg

Other: Mayor Lou Ogden (Absent), Councilor Jeff DeHaan (Absent)

MOTION CARRIED

1. Consideration of Approval of the Minutes for the Work Session of August 13, 2018 and Regular Meeting of September 10, 2018

E. SPECIAL REPORTS

1. Verizon Information on Small Cellular Technology

Public Works Director Jeff Fuchs and Management Analyst Nic Westendorf presented information on small cellular technology. Director Fuchs introduced Kim Allen, Wireless Policy Group Consultant for Verizon Wireless. Ms. Allen presented Verizon's Small Cell Program. She briefly explained what a small cell is and the need for them. She noted they are used to increase capacity to the system and allow for faster download speeds, fewer disruptions, and help connection problems. These types of devices are placed in right of ways to help with coverage gaps in terrain and high capacity areas. Examples of different types of small cell placement were shared and included pole placements, light standards, wireless poles, and strand mounts.

Ms. Allen spoke to concerns with the draft standards. She stated it is against safety standards to have flush mounted devices. They have to be mounted six inches from the pole to meet standards. In addition she addressed concerns with the proposed two panel maximum. She noted 4G service will have two panels, when speeds are increased to 5G they will have to add an additional panel. It was proposed the Council consider a volume metric size limit instead of a panel maximum.

Councilor Morrison asked about the proposal for small cells in Portland. He asked if all three large carriers agreed to the same standards. Ms. Allen stated they all agreed to general designs they could adhere to.

Council President Davis asked about the potential for volume metric standards. Director Fuchs stated staff would be back on October 22 with proposed standards and fees for Council consideration.

Ms. Allen requested the council consider changing the current proposed setbacks from 100ft on traffic poles. She noted there is no interference with traffic signals from the devices.

Councilor Kellogg asked when the cells are deployed in congested areas how far apart they are. Ms. Allen stated it is typically about one cell per block.

Councilor Kellogg asked about competition for space amongst carriers. Ms. Allen stated there is enough room for buildout for all providers due to different placements needs for coverage.

Councilor Kellogg asked if the cells would be deployed in both commercial and residential. Ms. Allen stated they would be.

Councilor Kellogg asked if there is currently any large scale deployment in Oregon. Ms. Allen stated there is not as they are mostly in Washington at this time.

Councilor Kellogg asked what fees are being charged in Washington. Ms. Allen spoke to the fee structure in Washington noting most do not have fees for use in the right of ways. Councilor Kellogg asked what Verizon paid Portland for their pilot program. Ms. Allen stated she was unsure of the fee.

Councilor Bubenik asked if Ms. Allen sees the bunching up of carriers as a potential problem due to the topography of the area. Ms. Allen stated there are enough poles for different placements amongst carriers.

Council President Davis asked how many cities in Oregon are having this same discussion. Ms. Allen stated they are having discussions with several dozen cities. Verizon is making a major effort with all cities in the greater Portland area. Council President Davis asked if only Verizon was having these discussions. Ms. Allen stated all three carriers are presenting information.

Council President Davis asked what the potential for our area of needing wireless only poles would be. Ms. Allen stated the preference of carriers is to place on existing poles to help keep costs down and not clutter the right of way.

Council President Davis asked how it is determined where cells go. Ms. Allen stated it is a customer driven process.

Councilor Bubenik asked how this would affect the replacement of older street lights to LED technology. Director Fuchs stated he would speak to PGE and bring information back.

Council President Davis asked how long, if approved, it would take to rollout the technology. Ms. Allen stated it depends.

Drew Thatcher, consultant for Ms. Allen, presented information on radiofrequency exposures. He stated the concern of exposures to radiofrequency from small cells is the same as FM radio waves. He spoke to the basis of radiofrequency standards noting they are in place to protect everyone on a continuous bases with no concern. He shared typical typical radiofrequency exposures and comparisons

amongst different devices. Mr. Thatcher spoke to interferences with small cells. He explained carriers have license frequencies they have to stay in. It was noted small cells do not interfere with other devices as they are on different frequencies.

Councilor Bubenik asked how the standards compare to Europe and Canada. Mr. Thatcher stated the US standards are the same as 60 other countries in the world.

Councilor Kellogg asked if two carriers could be on the same pole. Ms. Allen stated carriers cannot co-locate due to limitations of the cells and the load on the poles.

2. FY 2017-18 Annual Report of the Tualatin Arts Advisory Committee

Tualatin Arts Advisory Committee (TAAC) Member Mason Hall presented the annual report. Member Hall stated the role of the committee is to stimulate private and public support for programs and activities in the arts, encourage greater opportunities for recognition of arts in Tualatin, and to strive to ensure excellence in the public arts collection. The committee produces programs such as ArtSplash, ArtWalk, the Visual Chronicle, and other public arts and cultural programs like concerts. The committee fosters partnerships with the Tualatin Heritage Center and other community organizations that support arts in the area. The committee supported the Living Room Gallery to showcase and support local artist. This year the committee installed new wayfinding signs for the ArtWalk, administered the collections management program, and explored funding for art programs. TAACs action plan for the next year includes continuing to produce art events and programs and realigning program goals and performance measures to reflect recommendations made by TAAC in the Master Plan.

Councilor Bubenik asked how often the Living Room Gallery is turned over. Member Hall stated it is turned over quarterly.

Councilor Morrison thanked the committee for their time and efforts over the past year.

F. COMMUNICATIONS FROM COUNCILORS

Councilor Kellogg thanked the Tualatin Historical Society for the fundraising event they held. He noted the event was a success.

Councilor Bubenik thanked the Portland Water Bureau for the tour of Bullrun. He stated it was enlightening to see how much work goes into getting water to Tualatin.

Councilor Morrison stated the Tualatin High School TSO will be hosting Art in the Burbs on October 13-14 at Tualatin High School.

G. ADJOURNMENT

Council President Davis adjourned the meeting at 8:12p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Nicole Morris, Deputy City Recorder

DATE: 10/08/2018

SUBJECT: Consideration of Approval of a New Liquor License Application for Baja Fresh Mexican Grill

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve a new liquor license application for Baja Fresh Mexican Grill.

RECOMMENDATION:

Staff respectfully recommends that the Council approve endorsement of the liquor license application for Baja Fresh Mexican Grill.

EXECUTIVE SUMMARY:

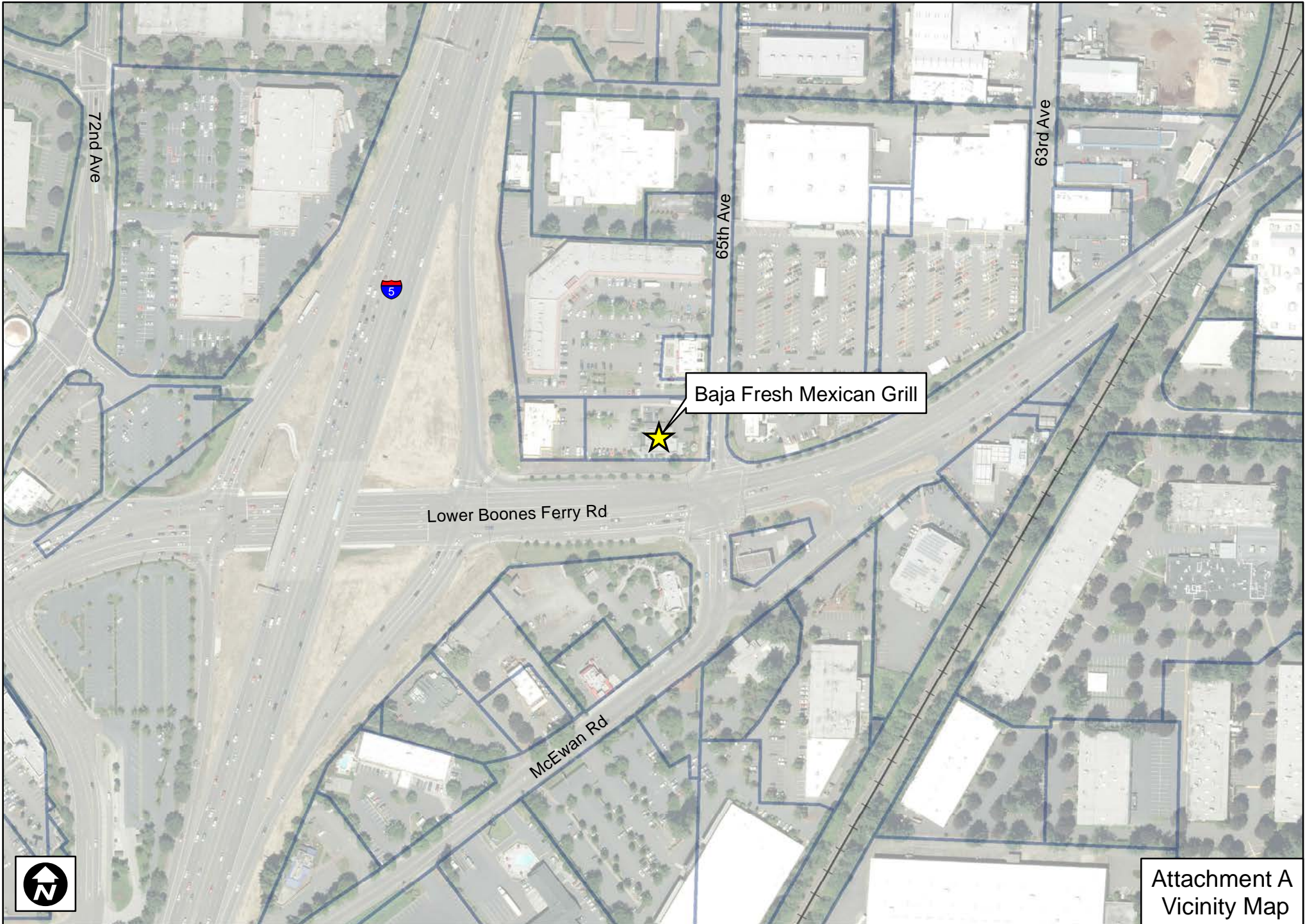
Baja Fresh Mexican Grill has submitted a new liquor license application under the category of full on-premises. This would permit them to sell and serve distilled spirits, malt beverages, wine, and cider for consumption at their location. They would also be permitted to sell malt beverages for off-site consumption in securely covered containers provided by the customer. The business is located 17805 SW 65th Ave. The application is in accordance with provisions of Ordinance No.680-85 which establishes procedures for liquor license applicants. Applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The Police Department has reviewed the new liquor license application and recommended approval. According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

FINANCIAL IMPLICATIONS:

A fee has been paid by the applicant.

Attachments: [Attachment A - Vicinity Map](#)
[Attachment B- License Types](#)

Attachment C-Application



Baja Fresh Mexican Grill

Lower Boones Ferry Rd

McEwan Rd

65th Ave

63rd Ave

72nd Ave



Attachment A
Vicinity Map

OREGON LIQUOR CONTROL COMMISSION LICENSE TYPES

FULL ON-PREMISES SALES

- **Commercial Establishment**
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location (*this is the license that most “full-service” restaurants obtain*). Sell malt beverages for off-site consumption in securely covered containers provided by the customer. Food service required. Must purchase distilled liquor **only** from an Oregon liquor store, or from another Full On- Premises Sales licensee who has purchased the distilled liquor from an Oregon liquor store.
- **Caterer**
Allows the sale of distilled spirits, malt beverages, wine, and cider by the drink to individuals at off-site catered events. Food service required.
- **Passenger Carrier**
An airline, railroad, or tour boat may sell and serve distilled spirits, malt beverages, wine, and cider for consumption on the licensed premises. Food service required.
- **Other Public Location**
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location, where the predominant activity is not eating or drinking (for example an auditorium; music, dance, or performing arts facility; banquet or special event facility; lodging fairground; sports stadium; art gallery; or a convention, exhibition, or community center). Food service required.
- **Private Club**
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location, but only for members and guests. Food service required.

LIMITED ON-PREMISES SALES

Sell and serve malt beverages, wine, and cider for onsite consumption. Allows the sale of malt beverages in containers (kegs) for off-site consumption. Sell malt beverages for off-site consumption in securely covered containers provided by the customer.

OFF-PREMISES SALES

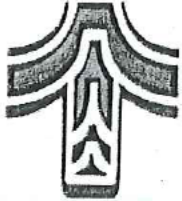
Sell factory-sealed containers of malt beverages, wine, and cider at retail to individuals in Oregon for consumption off the licensed premises. Eligible to provide sample tastings of malt beverages, wine, and cider for consumption on the premises. Eligible to ship manufacturer-sealed containers of malt beverages, wine, or cider directly to an Oregon resident.

BREWERY PUBLIC HOUSE

Make and sell malt beverages. Import malt beverages into and export from Oregon. Distribute malt beverages directly to retail and wholesale licensees in Oregon. Sell malt beverages made at the business to individuals for consumption on or off-site.

WINERY

Must principally produce wine or cider in Oregon. Manufacture, store, and export wine and cider. Import wine or cider *If bottled, the brand of wine or cider must be owned by the licensee*. Sell wine and cider to wholesale and retail licensees in Oregon. Sell malt beverages, wine, and cider to individuals in Oregon for consumption on or off-site.



CITY OF TUALATIN

LIQUOR LICENSE APPLICATION

Return Completed form to:
City of Tualatin
Attn: Deputy City Recorder
18880 SW Martinazzi Ave
Tualatin, OR 97062

Date 8/22/18

IMPORTANT: This is a three-page form. You are required to complete all sections of the form. If a question does not apply, please indicate N/A. Please include full names (last, first middle) and full dates of birth (month/day/year). Incomplete forms shall receive an unfavorable recommendation.
Thank you for your assistance and cooperation.

CITY OF TUALATIN
SEP 14 2018
MAYOR COUNCIL POLICE ADM
FINANCE COMM DEV LEGAL OPER
SOLID WASTE ENG & BLDG LIBRARY

SECTION 1: TYPE OF APPLICATION

- Original (New) Application - \$100.00 Application Fee.
- Change in Previous Application - \$75.00 Application Fee.
- Renewal of Previous License - \$35.00 Application Fee. Applicant must possess current business license. License # _____
- Temporary License - \$35.00 Application Fee.

SECTION 2: DESCRIPTION OF BUSINESS

Name of business (dba): Baja Fresh Mexican Grill

Business address 17805 SW 65th Ave City Tualatin State OR Zip Code 97035

Mailing address 17805 SW 65th Ave City Lake Oswego State OR Zip Code 97035

Telephone # 503-620-6742 Fax # _____

Name(s) of business manager(s) First RAMSEY Middle K Last ZAWIDEH

Date of birth _____ Social Security # _____ ODL# _____

Home address _____
(attach additional pages if necessary)

Type of business Restaurant

Type of food served Mexican

Type of entertainment (dancing, live music, exotic dancers, etc.) None

Days and hours of operation 10:30 Am - 10:00 pm 7 days

Food service hours: Breakfast 10:30 Am Lunch to Dinner 10:00 pm

Restaurant seating capacity 110 Outside or patio seating capacity 30

How late will you have outside seating? 10:00 pm How late will you sell alcohol? 10:00 pm

How many full-time employees do you have? 10 Part-time employees? 10

SECTION 3: DESCRIPTION OF LIQUOR LICENSE

Name of Individual, Partnership, Corporation, LLC, or Other applicants Fresh Ventures LLC

Type of liquor license (refer to OLCC form) Full On-Premise, Commercial

Form of entity holding license (check one and answer all related applicable questions):



INDIVIDUAL: If this box is checked, provide full name, date of birth, and residence address.
Full name _____ Date of birth _____
Residence address _____

PARTNERSHIP: If this box is checked, provide full name, date of birth and residence address for each partner. If more than two partners exist, use additional pages. If partners are not individuals, also provide for each partner a description of the partner's legal form and the information required by the section corresponding to the partner's form.
Full name _____ Date of birth _____
Residence address _____
Full name _____ Date of birth _____
Residence address _____

CORPORATION: If this box is checked, complete (a) through (c).
(a) Name and business address of registered agent.
Full name _____
Business address _____

(b) Does any shareholder own more than 50% of the outstanding shares of the corporation? If yes, provide the shareholder's full name, date of birth, and residence address.
Full name _____ Date of birth _____
Residence address _____

(c) Are there more than 35 shareholders of this corporation? Yes No. If 35 or fewer shareholders, identify the corporation's president, treasurer, and secretary by full name, date of birth, and residence address.
Full name of president: _____ Date of birth: _____
Residence address: _____
Full name of treasurer: _____ Date of birth: _____
Residence address: _____
Full name of secretary: _____ Date of birth: _____
Residence address: _____

LIMITED LIABILITY COMPANY: If this box is checked, provide full name, date of birth, and residence address of each member. If there are more than two members, use additional pages to complete this question. If members are not individuals, also provide for each member a description of the member's legal form and the information required by the section corresponding to the member's form.
Full name: Ramsell Zawideh Date of birth: 
Residence address: 

Full name: _____ Date of birth: _____

Residence address: _____

OTHER: If this box is checked, use a separate page to describe the entity, and identify with reasonable particularity every entity with an interest in the liquor license.

SECTION 4: APPLICANT SIGNATURE

A false answer or omission of any requested information on any page of this form shall result in an unfavorable recommendation.

Signature:  Date: 8/22/18

For City Use Only

Sources Checked:

- DMV by m
- LEDS by m
- TuPD Records by m
- Public Records by m

Number of alcohol-related incidents during past year for location.

Number of Tualatin arrest/suspect contacts for RAMSEY ZAWIDRIT

It is recommended that this application be:

Granted

Denied

Cause of unfavorable recommendation: _____

Bill Steele
Signature

9-18-18
Date

Kent W. Barker Bill Steele
Chief of Police
Tualatin Police Department



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Kelsey Lewis, Management Analyst II
Jeff Fuchs, Public Works Director

DATE: 10/08/2018

SUBJECT: Consideration of **Resolution No. 5402-18** Authorizing the City Manager to Execute an Amendment of a Professional Services Contract with Murray, Smith, and Associates, Inc. for Additional Services on the Water Master Plan

ISSUE BEFORE THE COUNCIL:

Contract amendment to include additional public involvement, critical infrastructure planning, and project management.

RECOMMENDATION:

Staff recommends that Council approve the resolution to allow the City Manager to amend Murray, Smith & Associates' contract.

EXECUTIVE SUMMARY:

In April of 2017, the City entered into a contract with Murray, Smith, and Associates, Inc. to update the Water Master Plan. Since then, the staff has determined that additional public involvement specifically related to water supply and emergency management would be beneficial to include in this master plan process.

Recent changes to State of Oregon requirements require water master plans to include a seismic risk assessment and a 50-year mitigation plan for the water system. The 2013 Oregon Resilience Plan (ORP) also recommends that utilities develop resilient water systems over a 50-year period. Consistent with those recommendations, Tualatin is planning long-term investments in seismic resiliency as part of its master plan. Those improvements will take many years to plan, design and construct, starting with a planned evaluation of water supply resiliency as part of the Master Plan in 2019.

The Master Plan will assess how to best be prepared for two emergency scenarios: 1) the Cascadia Subduction Zone Event that could result in loss of both water supply and the integrity of the water distribution system for an extended period of time and 2) a water supply outage due to an event such as the presence of algal toxins in the supply that could directly affect the water supply but that will not otherwise impact the City's water distribution system, other

regional water supplies, or other infrastructure unrelated to water.

Increasing preparedness for a catastrophic event will focus on increasing individual preparedness (e.g., community members storing emergency water and supplies at home) and developing a plan for distributing emergency water and identifying system improvements that could help with water distribution.

Increasing preparedness for a single supply outage will focus on water storage, emergency interties, and needed supply agreements and partnerships.

This amendment to the Master Plan will focus on engaging community members, including the Community Emergency Response Team (CERT) members to provide input in developing an emergency water plan. The project will also engage the broader community, through an on-line survey, website and video, and a public open house. The goal of broader engagement will be both to disseminate information on the emergency water distribution plan, as well as to encourage individual emergency preparedness.

Due to the dollar amount of the total requested contract (over \$150,000), City Council authorization is required to amend the contract.

FINANCIAL IMPLICATIONS:

Funds for this amendment of \$85,289 are available in the Water Operating and Water Development Funds.

Attachments: Resolution 5402-18

RESOLUTION NO. 5402-18

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT OF A PROFESSIONAL SERVICES CONTRACT WITH MURRAY, SMITH AND ASSOCIATES, INC. FOR ADDITIONAL SERVICES ON THE WATER MASTER PLAN

WHEREAS, the City signed an agreement with Murray, Smith and Associates, Inc. for engineering design services for the Water Master Plan update in April of 2017; and

WHEREAS, the Parties wish to enter into an amendment to the agreement to add public involvement project management services; and

WHEREAS, funds are available for this project in the Water Operating and Water Development Funds;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to execute an amendment to the existing agreement with Murray, Smith and Associates, Inc. in the amount of \$85,289.

Section 2. The City Manager or designee is authorized to execute Change Orders totaling up to 10% of the amended agreement price.

Section 3. This resolution is effective upon adoption.

Adopted by the City Council this 8th Day of October, 2018.

CITY OF TUALATIN OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST

BY _____
City Attorney

BY _____
City Recorder



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Nicole Morris, Deputy City Recorder

DATE: 10/08/2018

SUBJECT: Consideration of **Resolution No. 5403-18** Awarding Fiscal Year 2018/2019 Outside Agency Grant Funds to Provide Social Services to Residents of Tualatin

ISSUE BEFORE THE COUNCIL:

The City Council will consider Resolution No. 5403-18 that would award the fiscal year 2018/19 Outside Agency Grant funds to provide social services to residents of Tualatin.

RECOMMENDATION:

Staff recommends that the City Council approve Resolution No. 5403-18 awarding the 2018/19 Outside Agency Grants.

EXECUTIVE SUMMARY:

On September 24, 2018, the City Council discussed in work session the disbursements of the fiscal year 2018/19 Outside Agency Grant funds. Consensus was reached at that meeting to disperse the funds as follows:

Community Action Organization	\$5,000
Community Warehouse	\$2,500
Family Justice Center of Washington County	\$3,500
Family Promise of Tualatin Valley	\$2,000
Good Neighbor Center	\$4,500
Neighbors Nourishing Communities	\$2,500
Sexual Assault Resource Center	\$1,000
Tualatin High School MEChA	\$2,000
Tigard Tualatin Family Resource Center	\$1,000

Higado-Tualatin Family Resource Center \$4,000

Tualatin School House Food Pantry \$3,000

FINANCIAL IMPLICATIONS:

Grant funds for the Outside Agency Grants were budgeted for Fiscal Year 2018/19 in the amount of \$30,000.

Attachments: Resolution 5403-18

RESOLUTION NO. 5403-18

RESOLUTION AWARDING FISCAL YEAR 2018/2019 OUTSIDE AGENCY GRANT FUNDS TO PROVIDE SOCIAL SERVICES TO THE CITIZENS OF TUALATIN

WHEREAS, the City Council finds that providing social services is an important governmental function; and

WHEREAS, the City does not provide social services directly; and

WHEREAS, other non-profit entities exist that provide social services that serve the citizens of the City of Tualatin; and

WHEREAS, the City finds it is most efficient for the City to utilize these entities to provide social services to the citizens of Tualatin; and

WHEREAS, the City finds it is in the public interest for the City to grant funds directly to non-profit entities in order to provide needed social services;

WHEREAS, the City Council finds the City will receive a direct public benefit from the expenditure of these funds.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Council awards the following amounts to the following entities as a grant to provide social services to the citizens of the City of Tualatin:

Agency	Amount Awarded
Community Action Organization	\$5,000
Community Warehouse	\$2,500
Family Justice Center of Washington County	\$3,500
Family Promise of Tualatin Valley	\$2,000
Good Neighbor Center	\$4,500

Neighbors Nourishing Communities	\$2,500
Sexual Assault Resource Center	\$1,000
Tualatin High School MEChA	\$2,000
Tigard-Tualatin Family Resource Center	\$4,000
Tualatin School House Food Pantry	\$3,000

Section 2. The City Manager is authorized to execute grant agreements with the entities and amounts established in Section 1 of this resolution.

Section 3. This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 8th day of October, 2018.

CITY OF TUALATIN, OREGON

BY _____
Mayor Pro Tem

APPROVED AS TO LEGAL FORM

BY _____
City Attorney

ATTEST:

BY _____
City Recorder

City Council Meeting

Meeting Date: 10/08/2018

SPECIAL REPORTS: Summer Programs Review and Fall Programs Preview

Submitted For: Sherilyn Lombos, City Manager

SPECIAL REPORTS

Update on Programs and Activities Offered this Summer by the City of Tualatin and its Partners, and a Preview of Fall Programs

A. Summer Program Recap

City of Tualatin

Summer Programs Recap and Fall Preview 2018



Tualatin Public Library



3,000+ books given away

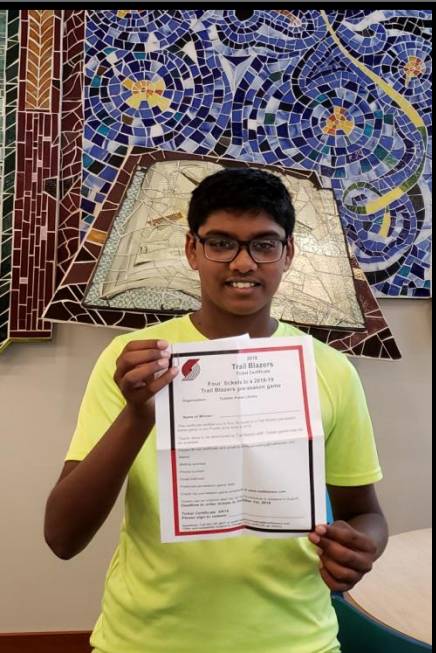
Weekly outreach at
Atfalati Summer Lunch site



Summer Lunch at the Library

Best finishing rates ever!

Byrom Elementary wins our
first Summer Reading Trophy!



Summer Reading at the Commons



Summer Reading fosters human development through promoting literacy & education, increases cultural unity, and creates a sense of place.



Tuesdays, June - August
Over 2000 attended



Summer Camp 2018



6 weeks, 24 sessions for ages 4-11
50 kids per day
Nearly 6,000 contact hours



Teen Adventure Camp

9 weeks, 18 sessions

24 teens per day

4,860 hours





CONCERTS ON THE COMMONS





MOVIES ON THE COMMONS



ART splash

3 days, 56 artists
2,500 people



Teen Volunteers



TEAM Tualatin 80 volunteers, 2,400 service hours

Library 37 volunteers, 925 hours

Tualatin Youth Advisory Council

15 volunteers, 350 hours



Police

National Night Out

21 neighborhood
events

GREAT Camp

Gang Resistance
Education and Training

Four weeks with 174
students



Juanita Pohl Center

Summer Programs



Over 4,000 participants in fitness, enrichment,
travel, and wellness programs

Nearly 4,600 meals served



Recreation Partners

Tualatin Crawfish Festival

Music, food, contests, and activities

Tualatin Heritage Center

Ongoing programs and events

Browns Ferry Park

Kayak & canoe rentals

Willowbrook Arts Camp

37th Summer

Tigard-Tualatin Summer Lunch Program

Community Park, Atfalati Park, Tualatin Public Library

YMCA and Skyhawks Camps



Facility Rentals

170 picnic shelter rentals,
over 11,000 people

566 sports field
reservations

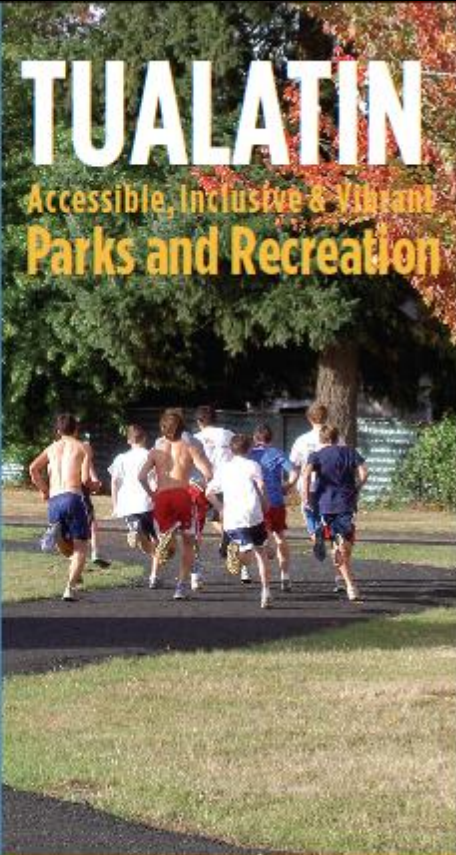


Parks & Recreation Master Plan



WHAT WILL
TUALATIN'S
PARKS LOOK
LIKE IN
20
YEARS?

TUALATIN
Accessible, Inclusive & Vibrant
Parks and Recreation



Come Talk To Us!
Open House:
Wednesday, 9/12
5:30-7:30pm
Tualatin Public Library

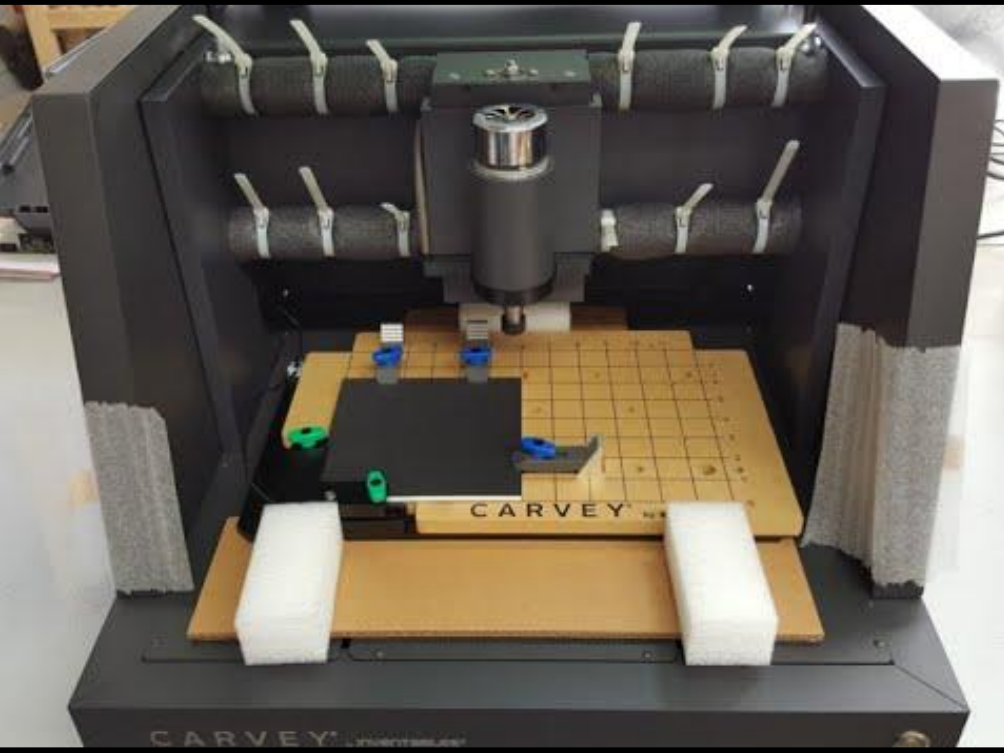
Join us in the review and comment on
PARKS & RECREATION
DRAFT MASTER PLAN Online at:
www.tualatinoregon.gov/recreation

- 7 Project Phases Completed
- 8 Project Advisory Meetings
- Values, Vision, Mission, Goals, Objectives & Recommendations Developed
- Draft Plan Community Outreach & Engagement
- 6 Plan Chapters with Appendices
- Council Adoption Consideration November 13



Tualatin Library

Fall Preview



Library of Things launching soon
Tech Tutoring available in Spanish
Makerspace times for adults and kids



Tualatin Library

Fall Preview

Hispanic Heritage Month
Trivia Nights
Music Programs



TRIVIA NIGHT



Washington County
Cooperative Library Services



Volunteer Services

Fall Preview



Put Down Roots in Tualatin

Tree planting season October - May
Saum Creek Trail, Tualatin River Greenway Trail,
Ibach Park, Tualatin Community Park



Fall Volunteer Programs at the Library

Spruce up the Library
Tween Takeover
Teen Volunteer Club



Juanita Pohl Center

Fall Preview



Better Balance Fair

September 20

Commit to be Fit! Challenge

September 12 - November 16



Veterans' Recognition

Breakfast

Friday, November 9



Tualatin Youth Advisory Council's

Haunted House

October 24, 25, 26, 27

\$4 youth, \$5 adult



West Coast Giant Pumpkin Regatta

Saturday, October 20, 2018





Giant Pumpkin Races · 5k
 Regatta Run · Terminator
 Weigh Off · Family
 Entertainment · Pie Eating
 Contests · Costume Contests ·
 Crafts · Food · and More!



West Coast Giant Pumpkin Regatta

Saturday, October 20, 2018





STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Aquilla Hurd-Ravich, Community Development Director
Sean Brady, City Attorney

DATE: 10/08/2018

SUBJECT: Consideration of Plan Text Amendment 18-0002A to amend Tualatin Development Code Chapter 70 Flood Plain District to Meet Minimum National Flood Insurance Program Requirements

ISSUE BEFORE THE COUNCIL:

City Council consideration of a Plan Text Amendment to update Tualatin Development Code Chapter 70: Flood Plain District to meet minimum National Flood Insurance Program requirements, adopting Federal Emergency Management Agency (FEMA) requirements for development in the flood plain.

In 2016 the City adopted updates to the Floodplain Ordinance which was consistent with the State Model Code and the State informed the City that we complied with FEMA regulations. Most recently in September of 2018, new maps were issued by FEMA that the City was required to adopt by October 2018. Since that time FEMA informed the City that we needed to adopt new model code language that exactly replicated federal code as well as other modifications. FEMA is currently working with the State to make changes to the Oregon model code.

RECOMMENDATION:

Staff recommends the City Council consider the staff report, draft language, and analysis and findings, then consider approval of PTA 18-0002A.

EXECUTIVE SUMMARY:

A letter dated April 19, 2018 to The Honorable Lou Ogden, Mayor of the City of Tualatin, was sent from Luis Rodriguez, P.E. Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration. Additionally, a letter and adoption booklet dated July 16, 2018 to The Honorable Lou Ogden, Mayor of the City of Tualatin, was sent from Rachel Sears, Director of the Floodplain Management Division, Mitigation Directorate, Federal Emergency Management Agency.

These letters identified October 19, 2018 as the effective date for the new Flood Insurance Study and updated Flood Insurance Rate Map panels that has been completed for Tualatin. By

this date the Department of Homeland Security's Federal Emergency Management Agency Regional Office is required to approve the legally enforceable floodplain management measures Tualatin adopts in accordance with Title 44 Code of Federal Regulations Section 60.3(d).

These letters are the Federal Emergency Management Agency's official notification that Tualatin has until October 19, 2018 to adopt and submit to FEMA a floodplain management ordinance that adopts the new Flood Insurance Study and Flood Insurance Rate Map Panels. Approval by the Federal Emergency Management Agency Regional Office by October 19, 2018 will enable Tualatin to avoid suspension from the National Flood Insurance Program.

PTA 18-0002A proposes to update TDC Chapter 70 to incorporate required language from the federal model code to comply with FEMA requirements.

PREVIOUS STEPS

On September 10, 2018 the City Council approved a modification to Chapter 70 Flood Plain District. Subsequent to that public hearing, FEMA informed City staff that additional modifications were necessary in order to comply with the National Flood Insurance Program. Tonight's public hearing is for Council's consideration of proposed additional modifications.

NEXT STEPS

Ordinance 1413-18 is proposed for consideration on the General Business Agenda, this same night. If the Ordinance is adopted, an emergency clause will allow modifications to Chapter 70 to take effect immediately, thus complying with FEMA's deadline of October 19, 2018.

OUTCOMES OF DECISION:

A decision to approve Plan Text Amendment 18-0002A would result in changes to multiple sections of the Tualatin Development Code Chapter 70: Flood Plain District. If these changes are approved by Council the City will remain compliant with the National Flood Insurance Program.

A decision to deny Plan Text Amendment 18-0002A would result in the following:

- The Tualatin Development Code will not be updated and Tualatin would be suspended from the National Flood Insurance Program.
- Flood insurance will no longer be available in Tualatin. No resident or business will be able to purchase or renew a flood insurance policy.
- No federal grants or loans for buildings would be made in identified flood hazard areas. Includes all federal agencies such as HUD, EDA, Small Business Administration, HHS, etc.
- No federal disaster assistance would be provided in the form of loans for repair or reconstruction of buildings in identified flood hazard areas.
- No federal mortgage insurance would be provided in identified flood hazard areas. This includes FHA, VA, Farmers Home, etc.
- No Fannie Mae, Freddie Mac, and GMNA purchase of mortgages in the secondary market would be made if the properties that are the subject of these mortgages are located in Special Flood Hazard Areas of nonparticipating communities.
- Lenders of conventional loans would be required to notify the buyer or lessee that property

PTA18-0002A: ANALYSIS AND FINDINGS

FLOODPLAIN ORDINANCE UPDATE 2018

Plan Text Amendment 18-0002A (PTA18-0002A) amends the Tualatin Development Code to adopt Federal Emergency Management Agency (FEMA) Requirements to allow development in the Floodplain. The purpose of these amendments is to facilitate local implementation of the National Flood Insurance Program requirements and to adopt the best available Flood Insurance Study and panel updates.

In 2016 the City adopted an amended floodplain ordinance. In September of 2018 a minor amendment was made to two Flood Insurance Rate Map (FIRM) panels that were outside the west boundary of the City of Tualatin. Subsequently, FEMA informed the City that further modifications were needed in order to be compliant with the National Flood Insurance Program.

Amendments are proposed to the following chapter and section:

Chapter 70 Flood Plain District

Background

The National Flood Insurance Program (NFIP) is a federal program created in 1968 through passage of the National Insurance Act and administered by the Federal Emergency Management Agency (FEMA). The program allows owners of property in a 100-year floodplain to obtain federally-backed flood insurance for their property in jurisdictions that have adopted land use ordinances to regulate floodplain development.

The Flood Insurance Rate Map (FIRM) is an official map on which FEMA has delineated both the Special Flood Hazard Area (SFHA) and other flood zones within a community. The SFHA is the area where floodplain management regulations of the NFIP must be enforced and where the mandatory purchase of flood insurance applies. The FIRM also notes the Base Flood Elevations (BFEs) for maps areas. BFEs inform both insurance rates and aid in identifying where flood plain development can occur.

On April 19, 2018 the City received a letter from FEMA which requires the City “to adopt or show” prior to October 19, 2018 “evidence of adoption of floodplain management regulations that meet [certain] standards” (Exhibit 1). This requirement is a condition of continued eligibility in the National Flood Insurance Program (NFIP). The letter provides pertinent background information as follows:

On February 19, 1987, the Department of Homeland Security’s FEMA issued a FIRM that identified the SFHAs, the areas subject to inundation by the base (1-percent-

annual-chance) flood in [our] community. [The City of Tualatin adopted the Study and FIRMs into the Development Code in 1998.] On November 4, 2016 revised FEMA FIS and FIRMs were adopted.

“On July 12, 2017 you were notified of proposed modified flood hazard area determinations (FHDs) affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for the City of Tualatin, Washington County, Oregon. The statutory 90-day appeal period that was initiated on July 26, 2017, when the Department of Homeland Security’s Federal Emergency Management Agency (FEMA) published a notice of proposed FHDs for your community in *The Oregonian*, has elapsed.

FEMA received no valid requests for changes in the FHDs. Therefore, the determination of Agency as to the FHDs for your community is considered final. The modified FHDs and revised map panels, as referenced above, will be effective as of October 19, 2018, and revised the FIRM that was in effect prior to that date. For insurance rating purposes, the community number and new suffix code for the panels being revised are indicated above and on the maps and must be used for all new policies and renewals.”

It must be emphasized that all the standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effect FIRM and FIS report to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community. Any additional requirements can be met by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d);
2. Adopting all the standards of paragraph 60.3(d) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.(d)

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended.

In addition to your community using the FIRM and FIS report to manage development in the floodplain, FEMA will use the FIRM and FIS report to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as

the lowest elevations (including basement) of new structures decrease in relation to the BFEs established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.”

The City of Tualatin proposes legislative amendments to the Tualatin Development Code (TDC) to amend existing regulations to incorporate any additional requirements of Paragraph 60.3(d) of the National Flood Insurance Program regulations. Amendments are proposed to Chapter 70 Flood Plain District of the Tualatin Development Code.

The Analysis and Findings presented here pertain only to the Plan Text Amendment proposed to amend language in the Tualatin Development Code.

Plan Amendment Criteria (TDC Section 1.032)

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below.

1. Granting the amendment is in the public interest.

Finding: Floodplain boundaries do not stay constant but rather undergo change over time due to the effects of erosion, development impacts such as increased run off, vegetation removal that can affect flood water retention and release, changes in weather patterns and other factors. To account for flood plain boundary changes, FEMA periodically adjusts the 100-year floodplain maps used by local jurisdictions. The City does not conduct flood plain inventories but relies on FEMA for the determination of the 100-year floodplain boundary. Mortgage lenders will typically notify homeowners whose property is in the flood plain that they are required to carry flood insurance. Homeowners without a mortgage are not required by law to obtain flood insurance but will not be covered for any property damage caused by flooding.

FEMA periodically amends the regulatory requirements of the NFIP through updates to the local FIRM and a corresponding Flood Insurance Study Report. Prior to amending the FIRM and/or developing new or revised flood plain requirements as part of the NFIP updates, FEMA coordinates with local jurisdictions (known as “discovery” process) to determine local flood area conditions, including areas of flood risk and potential mitigation for development.

As stated in the April 19, 2018 letter from FEMA, the City is required to update its floodplain management regulations to meet standards set out in the NFIP as a condition of continued eligibility in the National Flood Insurance Program (NFIP). Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended.

The floodplain affects a large portion of the City of Tualatin (755 acres AND 556 Parcels) with residential and employment uses.

If the City does not adopt these amendments prior to October 19, 2018, private property owners are not eligible for flood insurance which could endanger a mortgage if the lender requires flood insurance as a term of the loan. Therefore, it is in the public interest to adopt these amendments at this time.

Granting the amendment is in the public interest.

Criterion "1" is met.

2. The public interest is best protected by granting the amendment at this time.

Finding: According to the April 19, 2018 letter from FEMA the City of Tualatin is required to adopt floodplain management regulations that meet the standards of Paragraph 60.3(d) by the effective date of the FIRM which is October 19, 2018, as a condition of continued eligibility in the National Flood Insurance Program. The City received comments from FEMA that it must adopt new definitions that match the Code of Federal Regulations, as well as update to the language contained in the Oregon model floodplain code. The City is adopting the regulations as requested by FEMA and has received approval from both the State and FEMA that the proposed modifications comply.

Granting the amendment at this time best protects the public interest.

Criterion "2" is met.

3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

The applicable objectives of the Tualatin Community Plan are discussed below:

Chapter 3 Technical Memoranda Section 3.030 Natural Resources

(1) Geology

(c) Tualatin River. The Tualatin River originates on the eastern slope of the Coast Range. The watershed averages 40 miles long and 25 miles wide, draining 711 square miles before entering the Willamette River. About ½ of the watershed is in the valley, where the stream is flat with wide flood plains.

(3) Wildlife...

(c) Tualatin River. The Tualatin River and its floodplain from the western boundary of the Study Area to just past its junction with Fanno Creek has been identified as a wetland and marsh area. The River itself is an important fish migration route. The river and its associated vegetation are important natural habitats.

Section 3.040 Natural Hazards

- (1) Flooding. The last 3 miles of the Tualatin River, about 5 ½ miles downstream from the City of Tualatin, consists of a narrow gorge with a vertical drop of nearly 40 feet. Natural reefs occurring upstream limit the River's ability to pass flood flows. The reefs create a natural dam, forcing water to back up and flood into the Tualatin Valley.
 - a. Season. Flooding usually occurs between mid-November and mid-February, due to rainfall and snow melt. Unlike most Oregon streams, the wide, flat flood plains of the Tualatin Valley store large volumes of water that cause the River to peak slowly and remain above flood stage for several days.
 - b. Area. The core of the City of Tualatin is highly vulnerable to flooding of the Tualatin River. A 100-year frequency flood would cause extensive flooding in the City of Tualatin. It would also flood a large area west and east of the City's downtown and a large area in the northwest portion of the Study Area.
 - c. Existing flood control. Present flood control projects on the Willamette River do not appreciably affect flood conditions of the City of Tualatin. Upstream flood control measure on the Tualatin River will provide only limited benefits to the Tualatin Valley, as key physical constraints occur at the natural reefs downstream.

Chapter 4 Community Growth

Section 4.050 General Growth Objectives.

(11) Coordinate development plans with regional, state, and federal agencies to assure consistency with statutes, rules, and standards concerning air, noise, water quality, and solid waste. Cooperate with the U.S. Fish and Wildlife Service to minimize adverse impacts to the Tualatin River National Wildlife Refuge from development in adjacent areas of Tualatin.

(12) Adopt measures protecting life and property from natural hazards such as flooding, high groundwater, weak foundation soils and steep slopes.

Finding: The sections from the Tualatin Comprehensive Plan indicate that flooding from the Tualatin River could cause extensive damage. The 1996 floods in Tualatin did cause damage

to private and public structures. The amendment to the Chapter 70 Flood Plain adopts modified FHDs and revised map panels which are the regulatory benchmark for development in a flood plain. Local jurisdictions are required to adopt new floodplain regulations or amend existing floodplain regulations to incorporate the updated information into their local documents. Adopting updated FEMA requirements will enable local communities (and private property owners) to participating in the National Flood Insurance Program.

The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

Criterion “3” is met.

4. The following factors were consciously considered:

The various characteristics of the areas in the City.

Finding: The amendments are intended to implement, through the City’s Development Code Chapter 70 Flood Plain, regulations on development in areas of the city that FEMA has deemed to be at high risk of inundation under the 100-year flood. The Floodplain requirements would be applied to all new structures and substantial improvements in said high-risk areas. Approximately 556 tax lots contain some 755 acres in the 100-year floodplain.

If the City does not adopt these amendments prior to October 19, 2018, private property owners are not eligible for flood insurance which could endanger a mortgage if the lender requires flood insurance as a term of the loan.

The suitability of the area for particular land uses and improvements.

Not applicable

Trends in land improvement and development.

Finding: Tualatin Development Code Chapter 70 regulates development in the floodplain. Adjustments to the FIRM map will not alter how development in the flood plain is currently reviewed and processed. Eligibility for flood insurance will enhance development that has already occurred, and clear code language will ensure new development eliminates and/or mitigates flood risk.

Property Values.

Finding: Property values could be affected by the owner’s ability to obtain flood insurance. Mortgage lenders will typically notify homeowners whose property is in the floodplain that

they are required to carry flood insurance. Homeowners without a mortgage are not required by law to obtain flood insurance but will not be covered for any property damage caused by flooding. Property owners can apply for flood insurance if their local jurisdiction participates in the National Flood Insurance Program and in order to continue Tualatin's participation the City must adopt new the Flood Insurance Rate Maps and Flood Insurance Study.

The needs of economic enterprises and the future development of the area.

Finding: The 100-year floodplain covers some residential land but most of it covers employment land in industrial and commercial Planning Districts. New buildings or substantial improvements in these areas, which could lead to increased economic activity, will be affected by actuarial rates for flood insurance. In addition, mitigating for flood impacts will protect economic investment in new development and existing development alike.

Needed right-of-way and access for and to particular sites in the area.

Not applicable.

Natural resources of the City and the protection and conservation of said resources.

Not applicable.

Prospective requirements for the development of natural resources in the City.

Not applicable.

And the public need for healthful, safe, aesthetic surroundings and conditions.

Finding: The National Flood Insurance Program allows owners of property in a 100-year flood plain to obtain federally-backed flood insurance for their property in jurisdictions that have adopted land use ordinances to regulate flood plain development. This opportunity provides assurance to property owners that if a flood causes damages the property can be restored. The flood hazard areas of the City of Tualatin are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

The proposed amendments will promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions

designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money and costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains; , electric, telephone and sewer lines; , streets; , and bridges located in areas of special flood hazard;
- (6) Help to maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Proof of change in a neighborhood or area.

Finding: The City does not assert proof of change in a neighborhood or area.

Mistake in the Plan Text or Plan Map.

Finding: There is no mistake in the Plan Text or Plan Map.

The above factors were consciously considered.

Criterion “4” is met.

5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.

Because the PTA does not result in a change to plans or development regulations that would impact school facility capacity, Criterion “5” is not applicable.

6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

Of the 19 statewide planning goals, staff determined three goals are applicable.

Goal 1, “Citizen Involvement,” states, “To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

Finding: This goal will be met by complying with Tualatin Development Code 1.031 Notice Requirements for Plan Amendments. A notice was published in the Tualatin Times 10 City business days prior to the public hearing. Notices were posted in two conspicuous places within the City.

A public hearing before the City Council will occur October 8, 2018), during which time the public can give input on the proposed amendment. All agendas and minutes are available to the public through the City website.

This Goal is satisfied.

Goal 2, “Land Use Planning”, states, “To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

Finding: The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Community Plan and both pieces combine to make the Comprehensive Plan. The Community Plan establishes a process and standards to review changes to the Tualatin Development Code in compliance with the Community Plan and other applicable state requirements. As discussed above under Criteria “3”, the applicable Community Plan standards have been applied to the proposed amendment.

This Goal is satisfied

Goal 7, “Areas Subject To Natural Hazards” Implementation Measure #4, reads as follows: Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.

Finding: The proposed amendments are designed to adopt and implement local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements. This requirement will be met.

Ballot Measure 56 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost. (ORS 227.186)

Section (3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to

amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

Section (4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(9) For purposes of this section, property is rezoned when the city:
(a) Changes the base zoning classification of the property; or
(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

Finding: Measure 56 requires local jurisdictions to notify property owners when a change to a comprehensive plan or zoning ordinance could result in a rezone of property. As stated above, ORS 227.186 (9) defines rezone as a change to the base zoning classification or a change that limits or prohibits previously allowed land uses. The proposed amendments in this application will not change the base zoning classification of any properties. The City of Tualatin does not have a zoning ordinance but instead relies on Planning Districts to implement land use. No Planning Districts are proposed to change as a result of these amendments. Additionally, the proposed amendments do not limit or prohibit currently allowed land uses.

As stated in the April 19, 2018 letter from FEMA “The modified FHDs and revised map panels, as referenced above, will be effective as of October 19, 2018, and revised the FIRM that was in effect prior to that date. For insurance rating purposes, the community number and new suffix code for the panels being revised are indicated above and on the maps and must be used for all new policies and renewals.”

Based on the findings above, the City finds that the proposed amendments will not change the base zoning or limit or prohibit currently or previously allowed land uses but rather affect the type of building development in the affected area which is the Floodplain. Therefore a Measure 56 notice is not required. However, as an extra caution to ensure that all affected property owners were made aware of the change a Measure 56 notice was sent to all property owners within the floodplain.

The PTA complies with Goals 1, 2 and 7, and it complies with Measure 56.

Criterion “6” is met.

7. Granting the amendment is consistent with the Metropolitan Service District’s Urban Growth Management Functional Plan.

TITLE 3: WATER QUALITY AND FLOOD MANAGEMENT,

3.07.340 Performance Standards

A. Flood Management Performance Standards.

1. The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain functions and values of floodplains such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.

2. All development, excavation and fill in the Flood Management Areas shall conform to the following performance standards:

- a. Development, excavation and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.**
- b. All fill placed at or below the design flood elevation in Flood Management Areas shall be balanced with at least an equal amount of soil material removal.**
- c. Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.**
- d. Minimum finished floor elevations for new habitable structures in the Flood Management Areas shall be at least one foot above the design flood elevation.**
- e. Temporary fills permitted during construction shall be removed.**
- f. Uncontained areas of hazardous materials as defined by DEQ in the Flood Management Area shall be prohibited.**

Finding: The proposed amendments include language to ensure that, in the Tualatin Development Code Chapter 70: Flood Plain, the carrying capacity of the floodplain is maintained, finished floors are one foot above the Base Flood Elevation, and uncontained areas of hazardous materials as defined by DEQ are prohibited. The proposed amendments are consistent with this goal, and this requirement is met.

8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Because the PTA does not relate to vehicle trip generation, Criterion “8” is not applicable.

Exhibit 1- April 19, 2018 letter from FEMA



Federal Emergency Management Agency

Washington, D.C. 20472

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
115-I

April 19, 2018

The Honorable Lou Ogden
Mayor, City of Tualatin
City Hall
18880 Southwest Martinazzi Avenue
Tualatin, Oregon 97062

Community: City of Tualatin,
Washington County, Oregon
Community No.: 410277
Map Panels Affected: See FIRM Index

Dear Mayor Ogden:

On July 12, 2017, you were notified of proposed modified flood hazard determinations (FHDs) affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for the City of Tualatin, Washington County, Oregon. The statutory 90-day appeal period that was initiated on July 26, 2017, when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed FHDs for your community in *The Oregonian*, has elapsed.

FEMA received no valid requests for changes in the FHDs. Therefore, the determination of the Agency as to the FHDs for your community is considered final. The final FHDs will be published in the *Federal Register* as soon as possible. The modified FHDs and revised map panels, as referenced above, will be effective as of October 19, 2018, and revise the FIRM that was in effect prior to that date. For insurance rating purposes, the community number and new suffix code for the panels being revised are indicated above and on the maps and must be used for all new policies and renewals.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Public Law 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65. Because of the modifications to the FIRM and FIS report for your community made by this map revision, certain additional requirements must be met under Section 1361 of the 1968 Act, as amended, within 6 months from the date of this letter. **Prior to October 19, 2018, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP regulations. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.**

It must be emphasized that all the standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes the adoption of the effective FIRM and FIS report to which the regulations apply and the modifications made by this map revision. Some of the standards should already have been enacted by your community. Any additional requirements can be met by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d);

2. Adopting all the standards of Paragraph 60.3(d) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the 1973 Act as amended.

A Consultation Coordination Officer (CCO) has been designated to assist your community with any difficulties you may be encountering in enacting the floodplain management regulations. The CCO will be the primary liaison between your community and FEMA. For information about your CCO, please contact:

Mr. David M. Ratté
Engineer, Federal Emergency Management Agency, Region 10
130 - 228th Street, Southwest
Bothell, WA 98021-8627
(425) 487-4657

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment (LOMAs), Letters of Map Revision (LOMRs)) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the Special Flood Hazard Area as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based is being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIRM and FIS report for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions within Washington County, Oregon has been combined into one FIRM and FIS report. When the FIRM and FIS report are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your community.

The FIRM panels have been computer-generated. Once the FIRM and FIS report are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be

obtained by calling our FEMA Map Information eXchange (FMIX), toll free, at 1-877-FEMA-MAP (1-877-336-2627). In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If you have any questions regarding the necessary floodplain management measures for your community or the NFIP in general, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA in Chicago, Illinois, at (425) 487-4600 for assistance. If you have any questions concerning mapping issues in general or the enclosed Summary of Map Actions, please call our FMIX at the number shown above. Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the NFIP*, *Use of Flood Insurance Study (FIS) Data as Available Data*, *Frequently Asked Questions Regarding the Effect that Revised Flood Hazards have on Existing Structures*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling our FMIX.

Sincerely,



Luis Rodriguez, P.E., Director
Engineering and Modeling Division
Federal Insurance and Mitigation Administration

Enclosure:

Final Summary of Map Actions

cc: Community Map Repository

Jeff Fuchs, Public Works Director, City of Tualatin

Christine Shirley, CFM, State NFIP Coordinator, Oregon Department of Land Conservation and Development

David Lentzer, Oregon Risk MAP Coordinator, Oregon Department of Land Conservation and Development

FINAL SUMMARY OF MAP ACTIONS

Community: TUALATIN, CITY OF

Community No: 410277

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the effects of the enclosed revised FIRM panels(s) on previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs), Letter of Map Revision based on Fill (LOMR-Fs), and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on October 19, 2018.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels or will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

2A. LOMCs on Revised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMR-F	17-10-0221A	12/14/2016	TUALATIN INDUSTRIAL CONDOMINIUMS -- 12965 SW HERMAN ROAD	41067C0539E 41067C0543E	41067C0539F 41067C0543E

FINAL SUMMARY OF MAP ACTIONS

Community: TUALATIN, CITY OF

Community No: 410277

2B. LOMCs on Unrevised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMA	95-R10-109	05/05/1995	8185 S.W. Tualatin-Sherwood	4102770000	41067C0544E
LOMA	96-R10-092	01/23/1996	TRACT 5, TUALATIN COMMONS IN SECTION 24, T 2S, R1W	4102770002D	41067C0544E
LOMA	98-10-201A	05/15/1998	19300 SW BOONES FERRY ROAD--A PORTION OF SECTION 24, T2S, R1W, W.M.	4102770002D	41067C0544E
LOMA	98-10-484A	11/02/1998	19255 SW 65TH AVE-- A PORTION OF SECTION 24, T2S, R1W, W.M.	4102770002D	41067C0563E
LOMA	00-10-088A	01/10/2000	19300 SW BOONES FERRY ROAD -- PORTION OF SECTION 24, T2S, R1W, W.M.	4102770002D	41067C0544E
LOMR-F	00-10-086A	01/28/2000	HEDGES GREENE APT. HOMES, BLDGS. 1-17 & CLUBHOUSE -- 8900 SW SWECK DRIVE	4102770002D	41067C0544E
LOMA	03-10-0199A	02/04/2003	FOX HILL III, LOT 152 -- 19095 SW MOBILE PLACE	4102770002D	41067C0563E
LOMA	04-10-0837A	10/29/2004	STONES THROW APARTMENTS -- 6455 SW NYBERG LANE, PORTION OF SECTION 19, T2S, R1E, W.M.	4102770002D	41067C0563E
LOMR-F	04-10-0868A	11/17/2004	LIBERTY OAKS TOWNHOMES, LOT 86 -- 9279 CASCARA LANE	4102770002D	41067C0544E
LOMA	04-10-0815A	01/10/2005	EMERY ZIDELL COMMONS, LOTS 3-4	4102770002D	41067C0544E
LOMA	12-10-1438A	09/13/2012	FOX HILL III, LOT 172 -- 5585 SOUTHWEST OMAHA COURT	41005C0013D	41067C0563E
LOMA	12-10-1585X	10/11/2012	FOX HILL III, LOT 172 -- 5585 SOUTHWEST OMAHA COURT	4102770002D	41067C0563E
LOMA	13-10-0445A	01/15/2013	5916 SOUTHWEST NYBERG LANE (BUILDING B)	4102770002D	41067C0563E
LOMA	13-10-0462A	01/15/2013	5916 SOUTHWEST NYBERG LANE (BUILDINGS C & D)	4102770002D	41067C0563E
LOMA	13-10-0526A	02/12/2013	LOT 163, FOX HILL III -- 19025 SOUTHWEST 57TH AVENUE	4102770002D	41067C0563E

FINAL SUMMARY OF MAP ACTIONS

Community: TUALATIN, CITY OF

Community No: 410277

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMR-F	13-10-0848A	04/09/2013	10300 SOUTHWEST HERMAN ROAD, 10350 SOUTHWEST HERMAN ROAD & 10360 SOUTHWEST SPOKANE COURT	4102770001D	41067C0543E
LOMA	15-10-1183A	07/15/2015	Lot 16 and part 1, Premier Industrial Park Subdivision - 19400 SW Teton Ave	4102770001D	41067C0543E
LOMA	16-10-0953A	06/08/2016	LIBERTY OAKS, LOT 101 -- 9230 SW SWECK DRIVE	4102770002D	41067C0544E
LOMA	16-10-1365A	08/31/2016	LIBERTY OAKS, LOT 2 -- 18604 SW 91ST TERRACE	4102770002D	41067C0544E
LOMA	16-10-1241A	09/28/2016	SECTION 23, T2S, R1W -- 9700 SW TUALATIN ROAD	4102770002D	41067C0544E
LOMA	17-10-0179A	12/05/2016	PORTION OF SECTION 23, T2S, R1W -- 10280 SPOKANE COURT (NORTH BUILDING)	41067C0544E	41067C0544E
LOMA	17-10-0180A	12/07/2016	SECTION 23, T2S, R1W -- 10280 SPOKANE COURT (SOUTH BUILDING)	41067C0544E	41067C0544E
LOMR-F	17-10-0841A	03/28/2017	LIBERTY OAKS, LOTS 110-113 & 137-140 -- SW SWECK DRIVE & SW 93RD TERRACE	41067C0544E	41067C0544E
LOMR-F	17-10-1358A	07/24/2017	PARTITION PLAT NO. 1999-081, PARCEL 1 - 18755 SW 90TH AVENUE (BLDG C-F, H-L, GRAGE 1 & 7, OFFICE)	41067C0544E	41067C0544E
LOMA	18-10-0809A	03/29/2018	Lot 50, Liberty Oaks Subdivision - 18704 SW 92nd Avenue	41067C0544E	41067C0544E
LOMA	17-10-1585A	08/04/2017	PARTITION PLAT NO. 1999-081, PARCEL 1 -- 18755 SW 90TH AVENUE (BUILDINGS B/G/GARAGES 2-6/8-9)	41067C0544E	41067C0544E

FINAL SUMMARY OF MAP ACTIONS

Community: TUALATIN, CITY OF

Community No: 410277

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new or revised flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMR-F	199104531FIA	12/14/1988	STONES THROW APARTMENTS	1
LOMR-F	199107109FIA	09/26/1991	POR. LOT 14,15& VACATED CHESAPEAKE DR.	1
LOMA	05-10-0563A	07/01/2005	LIBERTY OAKS TOWNHOMES, LOT 39 – 18608 SW 92ND TERRACE	1

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.
6. Superseded by another LOMC.

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures is no longer valid, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and if appropriate issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		



City of Tualatin

PTA18-0002A FEMA Flood Plain Update

Tualatin City Council
October 8, 2018

Meeting Purpose

- City Council to consider approval of new model floodplain code language
 - Adopt without changes

Background

- 2016 City adopted updates to the Floodplain Ordinance
 - FEMA issued new maps for entire City
 - City's code consistent with Oregon Model Floodplain Ordinance
 - State Notified City of Compliance with FEMA Regulations

Background

- 2018 FEMA issued two new map panels
 - Panels didn't affect floodplains in Tualatin
 - City's code consistent with Oregon Model Floodplain Ordinance
 - September 10 Council approved updates to the Floodplain Ordinance

Background

- September 11 - FEMA informed the City of the need to adopt new model code language by October 19, 2018

Background

- FEMA is requiring
 - Changes to the Oregon Model Code and currently working with State and other jurisdictions
 - All ordinances include exact language from the definitions in the Code of Federal Regulations plus other modifications.
 - Includes grammatical and punctuation errors

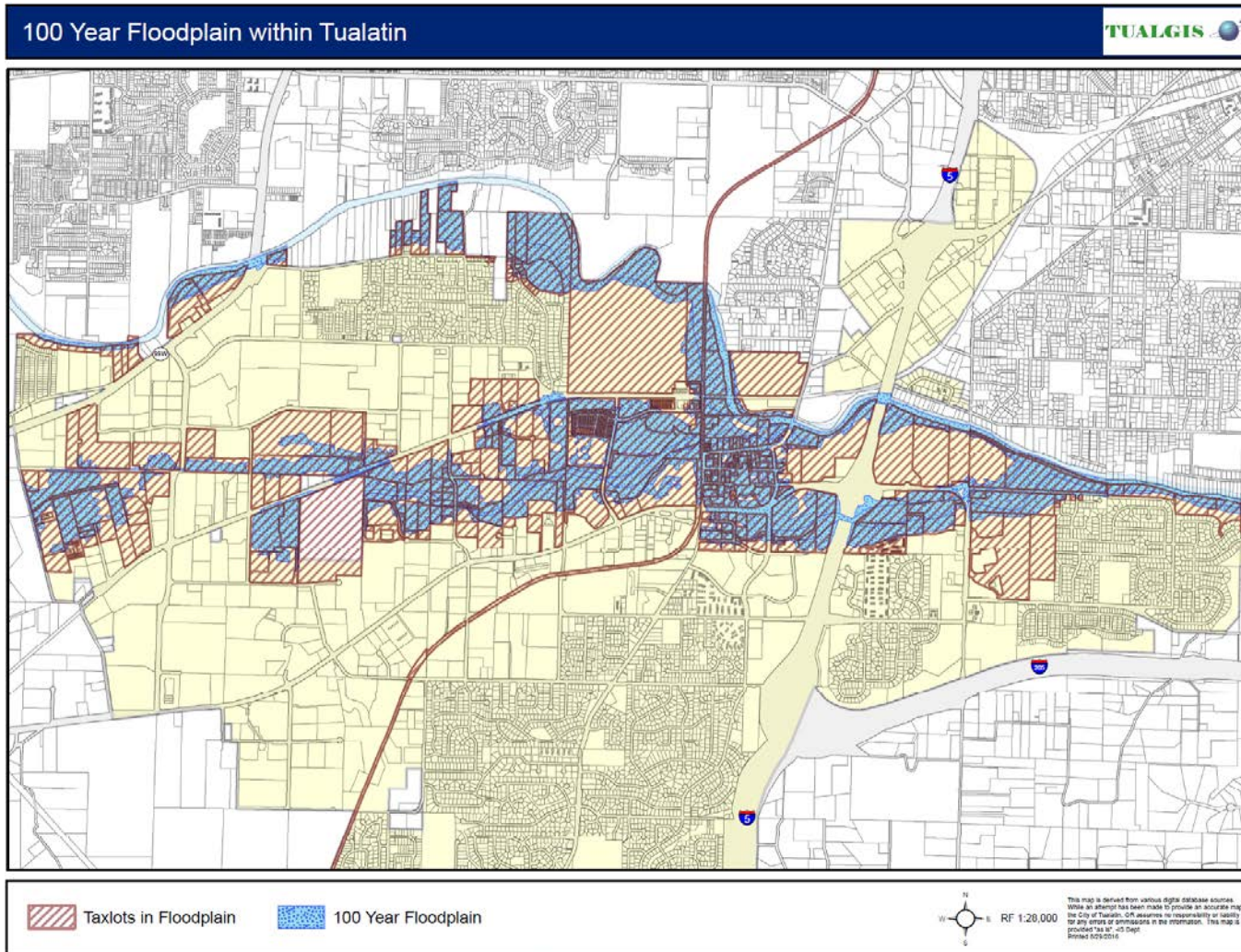
Background

- The proposed code received approval
 - Oregon on September 24
 - FEMA on September 25
- Public Hearing Notification September 18
 - Tualatin Times
 - Property owners in the Flood Plain
 - Agencies

Regulations Overview

- ▶ Amend TDC Chapter 70: Flood Plain District
 - Multiple sections change to exactly match new Federal Model Code that includes grammatical mistakes
 - Code language relocated
 - Modifications to 2016 language
 - New Definitions and Sections
 - Clarification and more detail
 - Exceptions for Small Accessory Structures

FEMA FIRM: No Change For Tax Lots With Floodplain Within Tualatin



Decision Outcomes –Approval

- ▶ Amend Tualatin Development Code Chapter 70:
Flood Plain District
 - ▶ Adopts Federal Model Code language to comply with the National Flood Insurance Program

Decision Outcomes –Denial: Tualatin Suspended From NFIP

- ▶ **Effects of Non-Participation/Suspension in Communities with Mapped Floodplains**
 - ▶ Flood insurance will no longer be available
 - ▶ No federal grants or loans for buildings within floodplain
 - ▶ No federal disaster assistance loans for repair or reconstruction of building within floodplain
 - ▶ No federal mortgage insurance for buildings within floodplain
 - ▶ No Fannie Mae, Freddie Mac, and GMNA purchase of mortgages in the secondary market for properties within floodplain
 - ▶ Lenders of conventional loans must notify that:
 - ▶ i) Property is within floodplain; and
 - ▶ ii) The property not eligible for federal disaster relief in a declared disaster

Next Steps

October 8:
Public
Hearing

October 8:
Ordinance
Adoption

October 19:
Ordinance
in Effect



Discussion, Questions, and Action

- ▶ **Consideration by City Council to**
 - ▶ Approve
 - ▶ Amend and approve





STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Sean Brady, City Attorney

DATE: 10/08/2018

SUBJECT: Consideration of **Ordinance No. 1413-18** Relating to the Floodplain District; and Amending Tualatin Development Code Chapter 70 to Adopt Federal Emergency Management Agency Requirements for Development of the Floodplain

ISSUE BEFORE THE COUNCIL:

Consideration of Ordinance No. 1413-18 Relating to the Floodplain District; and Amending Tualatin Development Code Chapter 70 to Adopt Federal Emergency Management Agency Requirements for Development of the Floodplain.

RECOMMENDATION:

Staff recommends Council adopt Ordinance No. 1413-18.

EXECUTIVE SUMMARY:

Ordinance No. 11413-18 amends TDC Chapter 70 (Floodplain District). The ordinance adopts a new FEMA floodplain panel map and brings the Tualatin Development Code into compliance with minimum FEMA floodplain regulations. Adopting the ordinance allows the City to continue to participate in the National Flood Insurance Program, which permits property owners within the 100-year floodplain to obtain federally-backed flood insurance. The ordinance received approval from both the State of Oregon and FEMA.

The City of Tualatin submitted an application for Plan Text Amendment (PTA) 18-0002A to amend TDC Chapter 70 (Floodplain District) and adopt new FEMA floodplain panel map and development requirements. The City provided notice of PTA 18-0002A to the Oregon Department of Land Conservation and Development, as provided in ORS 197.610. The City provided notice of the public hearing, as required by TDC 1.031. The City also provided notice of the public hearing to all impacted property owners, in compliance with ORS 227.186 (Ballot Measure 56).

A public hearing was held before the Council on October 8, 2018, to consider PTA 18-0002A. The Council considered the testimony and evidence presented by City staff and the comments of those appearing at the public hearing. The Council approved PTA 18-0002A.

Ordinance No. 1413-18 implements PTA 18-0002A to adopt the new FEMA floodplain maps

and development requirements.

Attachments: [Ordinance No. 1413-18 - Floodplain](#)
[Ordinance 1413-18-Findings](#)

ORDINANCE NO. 1413-18

AN ORDINANCE RELATING TO THE FLOODPLAIN DISTRICT; AND AMENDING TUALATIN DEVELOPMENT CODE CHAPTER 70 TO ADOPT FEDERAL EMERGENCY MANAGEMENT AGENCY REQUIREMENTS FOR DEVELOPMENT OF THE FLOODPLAIN.

WHEREAS, in order to receive flood insurance through the Federal Emergency Management Agency (FEMA), the City is required to adopt current FEMA requirements with respect to development within the floodplain;

WHEREAS, the Community Development Director initiated Plan Text Amendment PTA18-0002, which was amended to PTA18-0002A;

WHEREAS, the City provided notice of PTA18-0002A to the Oregon Department of Land Conservation and Development, as provided by ORS 197.610;

WHEREAS, the City provided notice of the public hearing to property owners in compliance with ORS 227.186 (Ballot Measure 56);

WHEREAS, notice of public hearing of PTA18-0002A was given as required by Tualatin Development Code (TDC) 1.031; and

WHEREAS, Council approved PTA18-0002A after a public hearing was held where Council heard and considered the testimony and evidence presented by City staff, and those appearing at the public hearing.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC Chapter 70 is amended as follows:

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, OBJECTIVES

Section 70.005 – Authorization.

Under Article XI, section 2 of the Oregon Constitution and the Charter of the City of Tualatin, the City of Tualatin has the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Tualatin adopts this Floodplain Management Chapter.

Section 70.007 – Findings of Fact.

(1) The flood hazard areas of the City of Tualatin are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

Section 70.010 – Statement of Purpose. It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) To Protect human life and health;
- (2) To Minimize expenditure of public money and costly flood control projects;
- (3) To Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To Minimize prolonged business interruptions;
- (5) To Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; streets; and bridges located in areas of special flood hazard;
- (6) To Help to maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) To Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 70.020 – Methods of Reducing Flood Losses. In order to accomplish its purposes, this Chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses that are dangerous to health, safety, and property due to water or erosion hazards, or ~~that~~ which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, and other development ~~that~~ which may increase flood damage; ~~and~~

(5) Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards in other areas; and

(6) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.

Section 70.030 – Definitions. ~~Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter most reasonable application. The words and phrases below have the following meanings:~~

Appeal. ~~A means a request for a review of the City Engineer's Local Floodplain Administrator's interpretation of any provision of this Chapter or a request for a variance.~~

Area of Shallow Flooding. ~~A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.~~ means a designated AO, or AH Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard. ~~means the~~ The land in the floodplain within a community subject to a 1-percent one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

Base Flood. ~~means the~~ The flood having a 1-percent one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

Basement. means any ~~Any~~ area of a building having its floor subgrade (below ground level) on all sides.

Below-Grade Craw Space means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior

grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four feet at any point.

~~*Critical Facility.* The facilities such as hospitals, fire stations, police stations, storage of critical records and similar facilities. means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous material or hazardous waste.~~

~~*Development.* means any Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.~~

~~*Elevated Building.* means for For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.~~

~~*Existing Manufactured Home Park or Subdivision.* A manufacturing home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.~~

~~*Expansion to an Existing Manufactured Home Park or Subdivision.* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

~~*Flood or Flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas from:~~

- ~~— (a) The overflow of inland or tidal waters; and/or~~
- ~~— (b) The unusual and rapid accumulation of runoff of surface waters from any source.~~

~~means:~~

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(3) Mudslides (i.e, mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and

flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood Insurance Rate Map (FIRM)—means ~~an~~ The official map of a community, on which the Federal Insurance Administration Administrator has delineated both the areas of special flood hazards hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study—~~The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood~~ means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway—~~means the~~ The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Lowest Floor—~~means the~~ The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, ; provided *Provided*, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter, found in subsection TDC 70.180(1)(c)(Specific Standards for Residential Construction).

Manufactured Dwelling means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured dwelling” does not include a “recreational vehicle.

~~Manufactured Home Park or Subdivision~~-means a parcel (or contiguous parcels) of land divided into two or more manufactured dwelling home lots for rent or sale.

~~New Construction~~-Structures for which the "start of construction" commenced on or after the effective date of this chapter

Means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

~~New Manufactured Home Park or Subdivision~~. A manufacturing home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Recreational Vehicle means a vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

~~Start of Construction~~ ~~includes~~ ~~substantial improvement~~, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

~~Structure~~-means, for floodplain management purposes, A a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

~~Substantial Damage~~-means damage ~~Damage~~ of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal

to or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any ~~Any~~ repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

~~(a) Before the improvement or repair is started; or~~

~~(b) If the structure has been and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

~~The term "substantial improvement" does not, however, include either:~~

~~(c) (a) Any project for improvement of a structure to correct existing violations of comply with existing state or local health, sanitary, or safety code specifications that which have been identified by the local code enforcement official and which are the minimum are solely necessary to assure safe living conditions; or~~

~~(d) (b) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's designation as a "historic structure." structure listed on the National Register of Historic Places or a State Inventory of Historic Places.~~

Variance means a A grant of relief by a community from the requirements terms of this chapter a floodplain management regulations (the requirements of this chapter). that permits construction in a manner that would otherwise be prohibited by this chapter.

Water Dependent Use means a A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

GENERAL PROVISIONS

Section 70.040 – Lands to Which This Chapter Applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Tualatin.

Section 70.050 – Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Insurance and Mitigation Administration in a scientific and engineering report entitled "Flood Insurance Rate Map, Washington County, Oregon and Incorporated Areas," effective date November 4, 2016 with superseded panels 41067C0593F and 41067C606F effective October 19,

2018, together with the "Flood Insurance Study for Washington County Oregon and Incorporated Areas," dated October 19, 2018, are hereby adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study is on file at the City of Tualatin City Offices, 18880 SW Martinazzi Avenue, Tualatin, Oregon 97062. The best available information for flood hazard area identification as outlined in TDC 70.140(2) (Duties and Responsibilities of Local Floodplain Administrator) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under TDC 70.140(2) (Duties and Responsibilities of Local Floodplain Administrator).

~~The City of Tualatin adopts the maps entitled "Flood Insurance Rate Map, Washington County, Oregon and Incorporated Areas," effective date November 4, 2016 together with the "Flood Insurance Study for Washington County Oregon and Incorporated Areas," dated November 4, 2016. The Flood Boundary and Floodway Maps, as provided for in the regulations of the Federal Emergency Management Agency (FEMA) (44 CFR part 59-60) are adopted by reference as establishing the floodplain, floodway, and drainage hazard areas of the City of Tualatin. Where the maps are not available or where the City Engineer determines more accurate information is available, the City Engineer may use any base flood elevation and floodway data available from a federal or state source, or from a licensed professional engineer, to determine the boundaries of the floodplain, floodway, and drainage hazard areas of the City of Tualatin, as provided in TDC 70.140. The Flood Insurance Study is on file at the City Center, 18880 SW Martinazzi Avenue, Tualatin, Oregon 97062.~~

Section 70.060 – **Penalties for Noncompliance** Compliance.

(1) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations.

(2) Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction and subject to a fine of up to \$1,000. Each violation, and each day that a violation continues, is a separate civil infraction.

(3) The civil infraction procedures in Tualatin Municipal Code Chapter 7-01 apply to the prosecution of any violation of this Chapter.

(4) Nothing herein contained shall prevent the City of Tualatin from taking such other lawful action as is necessary to prevent or remedy.

Section 70.070 – Abrogation and Greater Restrictions and Severability.

(1) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and any code, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(2) If any section clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 70.080 – Interpretation. In the interpretation and application of this Chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

Section 70.090 – Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Tualatin, any officer or employee thereof, or the Federal Insurance and Mitigation Administration, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

ADMINISTRATION

Section 70.110 – Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established by TDC 70.050 (Basis for Establishing the Areas of Special Flood Hazard). The permit shall be for all structures, including manufactured ~~homes~~ dwellings, as set forth in ~~the TDC 70.030 (Definitions), "Definitions,"~~ and for all other development, including fill and other activities, also as set forth in TDC 70.030 (Definitions) ~~the "Definitions."~~

Section 70.120 – Application for Development Permit. Application for a development permit shall be made on forms furnished by the ~~City Engineer~~ Local Floodplain Administrator and may include, but not be limited to, plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation, ~~in relation to mean sea level,~~ of the lowest floor (including basement) of all structures;
- (2) Elevation, ~~in relation to mean sea level,~~ of floodproofing of any structure ~~to which any structure has been flood proofed;~~

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the flood proofing criteria in TDC 70.180(2)(Specific Standards for Nonresidential Structures); and

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Section 70.130 – Designation of the Local Floodplain Administrator.

The City ~~Engineer~~ Manager, or designee, is hereby appointed as the Local Floodplain Administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

~~**Section 70.135 Provide Base Flood Elevation and Freeboard to Building Official.**~~

~~The City Engineer will provide the base flood elevation information to the Building Official along with any freeboard requirements in order to administer the Building Codes.~~

Section 70.140 – Duties and Responsibilities of the Local Floodplain

Administrator. The duties of the ~~City Engineer~~ Local Floodplain Administrator shall include, but not be limited to, ~~those listed in this Section:~~

(1) **Development Permit Application and Permit Review.**

(a) Review all development permits to determine that the permit requirements of this Chapter have been satisfied.

(b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

(c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of TDC 70.190~~(1)~~(Floodways) are met.

(d) Provide to building officials the base flood elevation and freeboard applicable to any building requiring a building permit

(e) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement, as set forth in the TDC 70.030 (Definitions).

(2) **Use of Other Base Flood Data (In A and V Zones).** When base flood elevation data has not been provided (A and V Zones) in accordance with TDC 70.050 ~~BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD~~ (Basis for Establishing the Areas of Special Flood Hazard), the ~~City Engineer~~ Local Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and

floodway data available from a Federal, State or other source, in order to administer TDC 70.180, ~~SPECIFIC STANDARDS~~, (Specific Standards) and TDC 70.190 FLOODWAYS (Floodways).

(3) Review of Building Permits. Where a FIRM and Flood Insurance Study have not been provided by the Federal Insurance and Mitigation Administration and elevation data is not available from another authoritative source (TDC 70.140(2) (Use of Other Base Flood Data (In A and V Zones))), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(3) (4) Information to Be Obtained and Maintained.

(a) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required under by subsection TDC 70.140(2) (Use of Other Base Flood Data (In A and V Zones)), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.

(b) For all new or substantially improved flood proofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in TDC 70.140(2) (Use of Other Base Flood Data (In A and V Zones)):

- (i) Verify and record the actual elevation (in relation to mean sea level); and
- (ii) Maintain the flood proofing certifications required by TDC 70.120(3).

(c) Maintain for public inspection all records pertaining to the provisions of this Chapter.

(4)(5) Alteration of Watercourses.

(a) Notify adjacent communities and the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance and Mitigation Administration as required in TDC 70.130(6).

(b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(6) Requirement to Submit New Technical Data.

(a) Notify FEMA within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Revision (LOMR).

(b) The property owner shall be responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.

(c) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.

~~(5)~~**(7) Interpretation of FIRM Boundaries.** Make interpretations when needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in TDC 70.150 (City Council as Appeal Board).

(8) Critical Facilities. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

VARIANCE PROCEDURE

PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 70.150 – City Council Action as Appeal Board.

(1) The City Council of the City of Tualatin shall hear and decide appeals and requests for variances from the requirements of this Chapter.

(2) The City Council shall ~~hear the matter in accordance with quasi-judicial evidentiary hearing procedures (TDC)~~ and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the ~~City Engineer~~ Local Floodplain Administrator in the enforcement or administration of this Chapter.

(3) Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision in accordance with State law.

(4) In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;
- (e) The necessity to the facility of a waterfront location, when applicable;
- (f) The availability of alternative locations for the proposed use ~~that~~ which are not subject to flooding or erosion damage;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) Upon consideration of the factors in TDC 70.150(4)(City Council as Appeal Board) and the purposes of this Chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter. The requirements for variances as described in TDC 33 must also be met.

(6) The ~~City Engineer~~ Local Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance and Mitigation Administration upon request.

Section 70.160 – Conditions for Variances.

(1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a) through (k) in TDC 70.150(4)(City Council as Appeal Board) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

(2) Variances may be issued for the ~~reconstruction,~~ repair or rehabilitation or restoration of historic structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section, provided that the alteration will not preclude the structure's designation as an "historic structure" and the variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of nuisances, fraud on or victimization of the public as identified in TDC 70.150(4)(City Council as Appeal Board) or conflict with existing local laws or ordinances.

(6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 70.160(1)(Conditions for Variances), and otherwise complies with subsections 70.170(1) and (2)(General Standards).

(8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation and that such construction below the base flood elevation increases risks to life and property. Such notification shall be permanently maintained with the floodplain development permit.

Section 70.170 – General Standards. In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(b) All manufactured dwellings shall be anchored according to TDC 70.180(3)(Specific Standards for Manufactured Dwellings). ~~must likewise be anchored to prevent flotation, collapse, or lateral movement, and be installed using methods and practices that minimize flood damage. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)~~

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

~~(d) AH Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.~~

(3) Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

(c) On-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

(4) Subdivision Proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed so as to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

(5) AH and AO Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures. **Review of Building Permits.** ~~Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (TDC 70.140(2)), applications for buildings permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.~~

Section 70.180 – Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in TDC 70.050 (Basis for Establishing the Areas of Special Flood Hazard), ~~"BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD,"~~ or TDC 70.140(2) (Use of Other Base Flood Data (In A and V Zones)), ~~"USE OF OTHER BASE FLOOD DATA,"~~ the following provisions are required:

(1) Residential Construction.

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.

(b) New public streets providing vehicle access to residences, including residences within mixed use developments, shall be constructed at or above the base flood

elevation. Public street rights-of-way in existence as of January 14, 1993, shall not be subject to this requirement.

(c) Below grade crawl-space construction in the floodplain shall comply with all NFIP specifications and applicable Building Code Requirements.

(d) ~~Elevated structures that are not floodproofed, but that have fully~~ Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(iv) If a building has more than one enclosed area below the lowest floor, each area shall be equipped with adequate flood openings.

(2) **Nonresidential Construction.** New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum according to ASCE 24; at least one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below the base flood level the structure is watertight, ~~with walls substantially impermeable to the passage of water;~~

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth in TDC 70.140(3)(b)(Duties and Responsibilities of the Local Floodplain Administrator) ;

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in TDC 70.180(1)(d)(Specific Standards for Residential Construction). ~~Elevated structures~~

~~that are not floodproofed, but that have fully enclosed areas below the lowest floor that are subject to flooding be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:~~

- ~~(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding be provided.~~
- ~~(ii) The bottom of all openings be no higher than one foot above grade.~~
- ~~(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.~~

~~(e) Applicants shall supply a Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure. Applicants flood proofing nonresidential buildings be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).~~

~~(f) Applicants shall supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.~~

~~(3) **Manufactured Dwellings.** Manufactured dwellings placed or substantially improved within Zones A1-30, AH, and AE be on a permanent foundation and have the lowest floor, including basement, elevated at least one foot above the base flood elevation and be securely anchored to a foundation system in accordance with TDC 70.170(1)(b). New construction, including placement, and substantial improvement of any manufactured dwelling shall comply with the following:~~

~~(a) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with TDC 70.180(1)(d)(Specific Standards for Residential Construction) above;~~

~~(b) The bottom of the longitudinal chassis frame beam in A zones (excluding coastal A zones), shall be at or above BFE;~~

~~(c) The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;~~

(d) Electrical crossover connections shall be a minimum of 12 inches above BFE.

(4) **Recreational Vehicles.** Recreational vehicles placed on sites are required to:

- (a) Be on the site for fewer than 180 consecutive days, and
- (b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(c) Meet the requirements of TDC 70.180(3)(Specific Standards for Manufactured Dwellings) above and the elevation and anchoring requirements for manufactured dwellings.

In addition, recreational vehicles that are permanently placed or substantially improved within Zones A1-30, AH, and AE shall be on a permanent foundation and shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation and shall be securely anchored to a foundation system in accordance with TDC 70.170(1)(b).

(5) **Small Accessory Structures.** Relief from elevation or floodproofing as required in TDC 70.180(1)(Specific Standards for Residential Structures) or TDC 70.180(2)(Specific Standards for Nonresidential Structures) above may be granted for small accessory structures that are:

(a) Less than 200 square feet and do not exceed one story;

(b) Not temperature controlled;

(c) Not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;

(d) Not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall unless confined in a tank installed in compliance with this ordinance or stored at least one foot above Base Flood Elevation;

(e) Located and constructed to have low damage potential;

(f) Constructed with materials resistant to flood damage;

(g) Anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

(h) Constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or:

(i) provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;

(iii) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

(i) Constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

(6) Below-Grade Crawl Spaces. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspaces Construction for Buildings Located in Special Flood Hazard Areas:

(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section TDC 70.180(1)(Specific Standards for Residential Structures) above. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(b) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

(c) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(d) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system

components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(e) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

(f) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(g) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(h) The velocity of floodwaters at the site shall not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

For more detailed information refer to FEMA Technical Bulletin 11-01

Section 70.185 – Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, and where the Flood Insurance Study indicates that it is possible to calculate a floodway, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section 70.190 – Floodways. Located within areas of special flood hazard established by TDC 70.050 (Basis for Establishing the Areas of Special Flood Hazard) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) ~~Prohibit encroachments, including fill, new construction, substantial improvements, and other development that will increase in flood levels during the occurrence of the base flood discharge. Except as provided in TDC 70.190(3)(Floodways), prohibit~~ encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided

demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in base flood or floodway elevations when compared to pre-project conditions.

(2) If TDC 70.190(1)(Floodways) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of TDC 70.170 to and including TDC 70.190, Provisions for Flood Hazard Reduction, or ASCE 24, whichever is more stringent.

(3) Temporary structures placed in the floodway: Relief from no-rise evaluation, elevation or dry flood-proofing standards may be granted for a non-residential structure placed during the dry season (June – October) and for a period of less than 90 days. A plan for the removal of the temporary structure after the dry season or when a flood event threatens shall be provided. The plan shall include disconnecting and protecting from water infiltration and damage all utilities servicing the temporary structure.

(4) Projects for stream habitat restoration may be permitted in the floodway provided:

(a) The civil engineer shall, as a minimum, provide a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible and that no structures will be impacted by a potential rise in flood elevation; and,

(b) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

Section 70.200 – Alterations to Floodplain, Drainage, or Watercourses.

(1) Applicants proposing to increase the Base Flood Elevation by more than one foot or alter a watercourse must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before any encroachment, including fill, new constructions, substantial improvement, or other development, in the regulatory floodway is permitted.

(2) Within six months of project completion, an applicant for a Letter of Map Revision (LOMR) must submit a completed application to FEMA and submit evidence to the City that a Letter of Map Revision (LOMR) has been requested that reflects the as-built changes to the Flood Insurance Study (FIS) and/or Flood Insurance Rate Map (FIRM).

(3) The applicant must prepare and submit technical data to support the Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR) application and pay any processing or application fees to FEMA.

Section 2. Findings. The Council adopts as its findings the *Analysis and Findings* set forth in Exhibit 1, which is attached and incorporated by reference.

Section 3. Emergency Clause. This ordinance is necessary of the immediate protection of the public peace, health, safety and welfare and takes effect on October 19, 2018.

ADOPTED by the City Council this ____ day of _____, 2018.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

PTA18-0002A: ANALYSIS AND FINDINGS

FLOODPLAIN ORDINANCE UPDATE 2018

Plan Text Amendment 18-0002A (PTA18-0002A) amends the Tualatin Development Code to adopt Federal Emergency Management Agency (FEMA) Requirements to allow development in the Floodplain. The purpose of these amendments is to facilitate local implementation of the National Flood Insurance Program requirements and to adopt the best available Flood Insurance Study and panel updates.

In 2016 the City adopted an amended floodplain ordinance. In September of 2018 a minor amendment was made to two Flood Insurance Rate Map (FIRM) panels that were outside the west boundary of the City of Tualatin. Subsequently, FEMA informed the City that further modifications were needed in order to be compliant with the National Flood Insurance Program.

Amendments are proposed to the following chapter and section:

Chapter 70 Flood Plain District

Background

The National Flood Insurance Program (NFIP) is a federal program created in 1968 through passage of the National Insurance Act and administered by the Federal Emergency Management Agency (FEMA). The program allows owners of property in a 100-year floodplain to obtain federally-backed flood insurance for their property in jurisdictions that have adopted land use ordinances to regulate floodplain development.

The Flood Insurance Rate Map (FIRM) is an official map on which FEMA has delineated both the Special Flood Hazard Area (SFHA) and other flood zones within a community. The SFHA is the area where floodplain management regulations of the NFIP must be enforced and where the mandatory purchase of flood insurance applies. The FIRM also notes the Base Flood Elevations (BFEs) for maps areas. BFEs inform both insurance rates and aid in identifying where flood plain development can occur.

On April 19, 2018 the City received a letter from FEMA which requires the City “to adopt or show” prior to October 19, 2018 “evidence of adoption of floodplain management regulations that meet [certain] standards” (Exhibit 1). This requirement is a condition of continued eligibility in the National Flood Insurance Program (NFIP). The letter provides pertinent background information as follows:

On February 19, 1987, the Department of Homeland Security’s FEMA issued a FIRM that identified the SFHAs, the areas subject to inundation by the base (1-percent-

annual-chance) flood in [our] community. [The City of Tualatin adopted the Study and FIRMs into the Development Code in 1998.] On November 4, 2016 revised FEMA FIS and FIRMs were adopted.

“On July 12, 2017 you were notified of proposed modified flood hazard area determinations (FHDs) affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for the City of Tualatin, Washington County, Oregon. The statutory 90-day appeal period that was initiated on July 26, 2017, when the Department of Homeland Security’s Federal Emergency Management Agency (FEMA) published a notice of proposed FHDs for your community in *The Oregonian*, has elapsed.

FEMA received no valid requests for changes in the FHDs. Therefore, the determination of Agency as to the FHDs for your community is considered final. The modified FHDs and revised map panels, as referenced above, will be effective as of October 19, 2018, and revised the FIRM that was in effect prior to that date. For insurance rating purposes, the community number and new suffix code for the panels being revised are indicated above and on the maps and must be used for all new policies and renewals.”

It must be emphasized that all the standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effect FIRM and FIS report to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community. Any additional requirements can be met by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d);
2. Adopting all the standards of paragraph 60.3(d) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.(d)

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended.

In addition to your community using the FIRM and FIS report to manage development in the floodplain, FEMA will use the FIRM and FIS report to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as

the lowest elevations (including basement) of new structures decrease in relation to the BFEs established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.”

The City of Tualatin proposes legislative amendments to the Tualatin Development Code (TDC) to amend existing regulations to incorporate any additional requirements of Paragraph 60.3(d) of the National Flood Insurance Program regulations. Amendments are proposed to Chapter 70 Flood Plain District of the Tualatin Development Code.

The Analysis and Findings presented here pertain only to the Plan Text Amendment proposed to amend language in the Tualatin Development Code.

Plan Amendment Criteria (TDC Section 1.032)

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below.

1. Granting the amendment is in the public interest.

Finding: Floodplain boundaries do not stay constant but rather undergo change over time due to the effects of erosion, development impacts such as increased run off, vegetation removal that can affect flood water retention and release, changes in weather patterns and other factors. To account for flood plain boundary changes, FEMA periodically adjusts the 100-year floodplain maps used by local jurisdictions. The City does not conduct flood plain inventories but relies on FEMA for the determination of the 100-year floodplain boundary. Mortgage lenders will typically notify homeowners whose property is in the flood plain that they are required to carry flood insurance. Homeowners without a mortgage are not required by law to obtain flood insurance but will not be covered for any property damage caused by flooding.

FEMA periodically amends the regulatory requirements of the NFIP through updates to the local FIRM and a corresponding Flood Insurance Study Report. Prior to amending the FIRM and/or developing new or revised flood plain requirements as part of the NFIP updates, FEMA coordinates with local jurisdictions (known as “discovery” process) to determine local flood area conditions, including areas of flood risk and potential mitigation for development.

As stated in the April 19, 2018 letter from FEMA, the City is required to update its floodplain management regulations to meet standards set out in the NFIP as a condition of continued eligibility in the National Flood Insurance Program (NFIP). Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended.

The floodplain affects a large portion of the City of Tualatin (755 acres AND 556 Parcels) with residential and employment uses.

If the City does not adopt these amendments prior to October 19, 2018, private property owners are not eligible for flood insurance which could endanger a mortgage if the lender requires flood insurance as a term of the loan. Therefore, it is in the public interest to adopt these amendments at this time.

Granting the amendment is in the public interest.

Criterion "1" is met.

2. The public interest is best protected by granting the amendment at this time.

Finding: According to the April 19, 2018 letter from FEMA the City of Tualatin is required to adopt floodplain management regulations that meet the standards of Paragraph 60.3(d) by the effective date of the FIRM which is October 19, 2018, as a condition of continued eligibility in the National Flood Insurance Program. The City received comments from FEMA that it must adopt new definitions that match the Code of Federal Regulations, as well as update to the language contained in the Oregon model floodplain code. The City is adopting the regulations as requested by FEMA and has received approval from both the State and FEMA that the proposed modifications comply.

Granting the amendment at this time best protects the public interest.

Criterion "2" is met.

3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

The applicable objectives of the Tualatin Community Plan are discussed below:

Chapter 3 Technical Memoranda Section 3.030 Natural Resources

(1) Geology

(c) Tualatin River. The Tualatin River originates on the eastern slope of the Coast Range. The watershed averages 40 miles long and 25 miles wide, draining 711 square miles before entering the Willamette River. About ½ of the watershed is in the valley, where the stream is flat with wide flood plains.

(3) Wildlife...

(c) Tualatin River. The Tualatin River and its floodplain from the western boundary of the Study Area to just past its junction with Fanno Creek has been identified as a wetland and marsh area. The River itself is an important fish migration route. The river and its associated vegetation are important natural habitats.

Section 3.040 Natural Hazards

- (1) Flooding. The last 3 miles of the Tualatin River, about 5 ½ miles downstream from the City of Tualatin, consists of a narrow gorge with a vertical drop of nearly 40 feet. Natural reefs occurring upstream limit the River's ability to pass flood flows. The reefs create a natural dam, forcing water to back up and flood into the Tualatin Valley.
 - a. Season. Flooding usually occurs between mid-November and mid-February, due to rainfall and snow melt. Unlike most Oregon streams, the wide, flat flood plains of the Tualatin Valley store large volumes of water that cause the River to peak slowly and remain above flood stage for several days.
 - b. Area. The core of the City of Tualatin is highly vulnerable to flooding of the Tualatin River. A 100-year frequency flood would cause extensive flooding in the City of Tualatin. It would also flood a large area west and east of the City's downtown and a large area in the northwest portion of the Study Area.
 - c. Existing flood control. Present flood control projects on the Willamette River do not appreciably affect flood conditions of the City of Tualatin. Upstream flood control measure on the Tualatin River will provide only limited benefits to the Tualatin Valley, as key physical constraints occur at the natural reefs downstream.

Chapter 4 Community Growth

Section 4.050 General Growth Objectives.

(11) Coordinate development plans with regional, state, and federal agencies to assure consistency with statutes, rules, and standards concerning air, noise, water quality, and solid waste. Cooperate with the U.S. Fish and Wildlife Service to minimize adverse impacts to the Tualatin River National Wildlife Refuge from development in adjacent areas of Tualatin.

(12) Adopt measures protecting life and property from natural hazards such as flooding, high groundwater, weak foundation soils and steep slopes.

Finding: The sections from the Tualatin Comprehensive Plan indicate that flooding from the Tualatin River could cause extensive damage. The 1996 floods in Tualatin did cause damage

to private and public structures. The amendment to the Chapter 70 Flood Plain adopts modified FHDs and revised map panels which are the regulatory benchmark for development in a flood plain. Local jurisdictions are required to adopt new floodplain regulations or amend existing floodplain regulations to incorporate the updated information into their local documents. Adopting updated FEMA requirements will enable local communities (and private property owners) to participating in the National Flood Insurance Program.

The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

Criterion “3” is met.

4. The following factors were consciously considered:

The various characteristics of the areas in the City.

Finding: The amendments are intended to implement, through the City’s Development Code Chapter 70 Flood Plain, regulations on development in areas of the city that FEMA has deemed to be at high risk of inundation under the 100-year flood. The Floodplain requirements would be applied to all new structures and substantial improvements in said high-risk areas. Approximately 556 tax lots contain some 755 acres in the 100-year floodplain.

If the City does not adopt these amendments prior to October 19, 2018, private property owners are not eligible for flood insurance which could endanger a mortgage if the lender requires flood insurance as a term of the loan.

The suitability of the area for particular land uses and improvements.

Not applicable

Trends in land improvement and development.

Finding: Tualatin Development Code Chapter 70 regulates development in the floodplain. Adjustments to the FIRM map will not alter how development in the flood plain is currently reviewed and processed. Eligibility for flood insurance will enhance development that has already occurred, and clear code language will ensure new development eliminates and/or mitigates flood risk.

Property Values.

Finding: Property values could be affected by the owner’s ability to obtain flood insurance. Mortgage lenders will typically notify homeowners whose property is in the floodplain that

they are required to carry flood insurance. Homeowners without a mortgage are not required by law to obtain flood insurance but will not be covered for any property damage caused by flooding. Property owners can apply for flood insurance if their local jurisdiction participates in the National Flood Insurance Program and in order to continue Tualatin's participation the City must adopt new the Flood Insurance Rate Maps and Flood Insurance Study.

The needs of economic enterprises and the future development of the area.

Finding: The 100-year floodplain covers some residential land but most of it covers employment land in industrial and commercial Planning Districts. New buildings or substantial improvements in these areas, which could lead to increased economic activity, will be affected by actuarial rates for flood insurance. In addition, mitigating for flood impacts will protect economic investment in new development and existing development alike.

Needed right-of-way and access for and to particular sites in the area.

Not applicable.

Natural resources of the City and the protection and conservation of said resources.

Not applicable.

Prospective requirements for the development of natural resources in the City.

Not applicable.

And the public need for healthful, safe, aesthetic surroundings and conditions.

Finding: The National Flood Insurance Program allows owners of property in a 100-year flood plain to obtain federally-backed flood insurance for their property in jurisdictions that have adopted land use ordinances to regulate flood plain development. This opportunity provides assurance to property owners that if a flood causes damages the property can be restored. The flood hazard areas of the City of Tualatin are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

The proposed amendments will promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions

designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money and costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains; , electric, telephone and sewer lines; , streets; , and bridges located in areas of special flood hazard;
- (6) Help to maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Proof of change in a neighborhood or area.

Finding: The City does not assert proof of change in a neighborhood or area.

Mistake in the Plan Text or Plan Map.

Finding: There is no mistake in the Plan Text or Plan Map.

The above factors were consciously considered.

Criterion “4” is met.

5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.

Because the PTA does not result in a change to plans or development regulations that would impact school facility capacity, Criterion “5” is not applicable.

6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

Of the 19 statewide planning goals, staff determined three goals are applicable.

Goal 1, “Citizen Involvement,” states, “To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

Finding: This goal will be met by complying with Tualatin Development Code 1.031 Notice Requirements for Plan Amendments. A notice was published in the Tualatin Times 10 City business days prior to the public hearing. Notices were posted in two conspicuous places within the City.

A public hearing before the City Council will occur October 8, 2018), during which time the public can give input on the proposed amendment. All agendas and minutes are available to the public through the City website.

This Goal is satisfied.

Goal 2, “Land Use Planning”, states, “To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

Finding: The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Community Plan and both pieces combine to make the Comprehensive Plan. The Community Plan establishes a process and standards to review changes to the Tualatin Development Code in compliance with the Community Plan and other applicable state requirements. As discussed above under Criteria “3”, the applicable Community Plan standards have been applied to the proposed amendment.

This Goal is satisfied

Goal 7, “Areas Subject To Natural Hazards” Implementation Measure #4, reads as follows: Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.

Finding: The proposed amendments are designed to adopt and implement local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements. This requirement will be met.

Ballot Measure 56 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost. (ORS 227.186)

Section (3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to

amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

Section (4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(9) For purposes of this section, property is rezoned when the city:
(a) Changes the base zoning classification of the property; or
(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

Finding: Measure 56 requires local jurisdictions to notify property owners when a change to a comprehensive plan or zoning ordinance could result in a rezone of property. As stated above, ORS 227.186 (9) defines rezone as a change to the base zoning classification or a change that limits or prohibits previously allowed land uses. The proposed amendments in this application will not change the base zoning classification of any properties. The City of Tualatin does not have a zoning ordinance but instead relies on Planning Districts to implement land use. No Planning Districts are proposed to change as a result of these amendments. Additionally, the proposed amendments do not limit or prohibit currently allowed land uses.

As stated in the April 19, 2018 letter from FEMA “The modified FHDs and revised map panels, as referenced above, will be effective as of October 19, 2018, and revised the FIRM that was in effect prior to that date. For insurance rating purposes, the community number and new suffix code for the panels being revised are indicated above and on the maps and must be used for all new policies and renewals.”

Based on the findings above, the City finds that the proposed amendments will not change the base zoning or limit or prohibit currently or previously allowed land uses but rather affect the type of building development in the affected area which is the Floodplain. Therefore a Measure 56 notice is not required. However, as an extra caution to ensure that all affected property owners were made aware of the change a Measure 56 notice was sent to all property owners within the floodplain.

The PTA complies with Goals 1, 2 and 7, and it complies with Measure 56.

Criterion “6” is met.

7. Granting the amendment is consistent with the Metropolitan Service District’s Urban Growth Management Functional Plan.

TITLE 3: WATER QUALITY AND FLOOD MANAGEMENT,

3.07.340 Performance Standards

A. Flood Management Performance Standards.

1. The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain functions and values of floodplains such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.

2. All development, excavation and fill in the Flood Management Areas shall conform to the following performance standards:

- a. Development, excavation and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.**
- b. All fill placed at or below the design flood elevation in Flood Management Areas shall be balanced with at least an equal amount of soil material removal.**
- c. Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.**
- d. Minimum finished floor elevations for new habitable structures in the Flood Management Areas shall be at least one foot above the design flood elevation.**
- e. Temporary fills permitted during construction shall be removed.**
- f. Uncontained areas of hazardous materials as defined by DEQ in the Flood Management Area shall be prohibited.**

Finding: The proposed amendments include language to ensure that, in the Tualatin Development Code Chapter 70: Flood Plain, the carrying capacity of the floodplain is maintained, finished floors are one foot above the Base Flood Elevation, and uncontained areas of hazardous materials as defined by DEQ are prohibited. The proposed amendments are consistent with this goal, and this requirement is met.

8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Because the PTA does not relate to vehicle trip generation, Criterion “8” is not applicable.

Exhibit 1- April 19, 2018 letter from FEMA



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Aquilla Hurd-Ravich, Community Development Director

DATE: 10/08/2018

SUBJECT: Consideration of a Three City Agreement Regarding Concept Planning in Stafford

ISSUE BEFORE THE COUNCIL:

Last week the Mayors and City Managers of Tualatin, West Linn and Lake Oswego convened to discuss potential content of a three city Intergovernmental Agreement (IGA). The goal is to finalize an IGA by the end of the year that would give some parameters and guidance to future concept plans.

RECOMMENDATION:

Tonight the Council will discuss the bullet points drafted by Mayors Axelrod, Ogden and Studebaker and provide input for any changes or additional considerations that will lead to a formal IGA.

EXECUTIVE SUMMARY:

Given that the three cities will be responsible for concept planning the Stafford Area, and given that the three cities have potentially different interests and concerns regarding what happens in that area and the impacts on existing communities, it seems prudent to have a baseline agreement that covers the geographic area each city will be responsible for planning and how each city will go about that effort.

A few takeaways from the attached bullet points are that the cities intend to coordinate planning efforts but do not intend to joint concept plan. The cities will not start concept planning or apply for urban growth boundary amendments until improvements to I-205 are underway. The cities will mitigate any adverse impacts on other cities and dispute resolution will be defined in the IGA. Additionally, planning for areas north of the Tualatin River will not begin for ten years after the IGA is finalized.

In February 2018 Council had a discussion during work session to provide feedback on a potential Stafford Agreement and concept planning boundaries. This followed the five-party Stafford Agreement adopted in June 2017 which specified that the cities of Lake Oswego, Tualatin and West Linn will be responsible for concept planning and future decisions on any urban development in the Stafford Area. The next step, after last February's meeting, was for

the three cities to enter into a separate agreement which outlines how we will interact with each other in our respective concept planning. Last week's discussion among the Mayors and City Managers was part of that process.

Attachments: [Attachment A - Draft Three City Agreement Regarding Stafford](#)

Key elements of a three-party Stafford agreement to be signed by the end of 2018:

- Recitals noting how this agreement is consistent with and implements the previous five-party agreement, and therefore is an essential part of what was necessary for the Stafford area to have met the urban reserve designation requirements.
- Cities will coordinate concept planning, but individually prepare concept plans. Concept area boundaries will be based on specified criteria identified in the three party IGA. These criteria will include the Metro Code Criteria and any additional criteria that three cities deem relevant (natural topography and features, freeway and arterial streets, logical extensions of existing city boundaries, efficient service provision, etc.). Initial areas of interest (including overlapping areas) will be an exhibit to the agreement, to be used as a starting point.
- Concept plans will include mechanisms to mitigate material negative effects on other cities, especially traffic impacts.
- Concept planning for the area north of the Tualatin River will begin no earlier than ten years from the date of the agreement.
- Application for UGB expansion of any part of the Stafford Area will not occur until I-205 is widened (from Stafford to and including Abernathy Bridge).
- Potential disputes among the three cities will be handled through an agreed-upon mediation process. Traffic mitigation disputes and concept area boundaries will be subject to final arbitration.
- Concept planning, including establishment of concept planning boundaries, will comply with Goal 1 requirements for public involvement, including input from residents and property owners in the Stafford area.
- Minor UGB expansions and annexation limited to land for parks and open space and public facilities (e.g., Luscher Farm) can occur without completion of the concept plans for the full area.



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Nicole Morris, Deputy City Recorder

DATE: 10/08/2018

SUBJECT: Consideration of **Resolution No. 5404-18** Accepting the Resignation of Jeff DeHaan from City Council and Declaring City Council Position #3 Vacant

ISSUE BEFORE THE COUNCIL:

The City Council will consider Resolution No. 5404-18 accepting the resignation of Jeff DeHaan from City Council and declaring City Council Position #3 vacant.

RECOMMENDATION:

Staff recommends that the City Council approve Resolution No. 5404-18, discuss the options for filling the vacancy, and provide appropriate direction to staff.

EXECUTIVE SUMMARY:

The Tualatin Charter Section 32 provides that a position on the City Council becomes vacant upon a Councilor's resignation from office and the declaration of vacancy by the City Council. City Councilor Jeff DeHaan recently notified the City of his resignation from City Council position #3. The position will be officially vacant once the City Council adopts the resolution.

Background on Position #3:

Wade Brooksby was elected to Position #3 in November 2014 for the term running from January 2015 to December 2018. In October 2016, Councilor Brooksby resigned and the City Council declared the position vacant. After interviewing 7 candidates, in December 2016, the City Council appointed Jeff DeHaan to fill Position #3 for the remainder of the term (through December 2018). Councilor DeHaan did not file as a candidate during the recent filing period for the November 2018 election; one candidate has filed for Position #3 and will be on the November 6, 2018 ballot.

Options for Filling the Vacancy:

Option #1: Council appoints a replacement to serve through the end of 2018. The process the Council has employed in the past is to have candidates submit applications, interview the candidates, then appoint someone. Given that there are only 4 City Council meetings left in the existing term (October 22, November 12, November 26, December 10), this option does not appear highly feasible, as it would take time to receive applications and interview candidates, leaving only 2 or 3 meetings in the term.

Option #2: Council appoints the one candidate who has filed for Position #3, Bridget Brooks. This is a logical option, given that Ms. Brooks is the presumptive Councilor to fill the term running from January 2019 to December 2022. The downside of this option is that Ms. Brooks would be prohibited from running for a 3rd consecutive term due to the term limits of 12 years on Council in any 20 year period. Appointing Ms. Brooks now, to serve for four meetings, would exclude her from a 3rd consecutive term.

Option #3: Council does nothing, leaving Position #3 vacant through the remainder of the term.

Attachments: Resolution 5404-18

RESOLUTION NO. 5404-18

A RESOLUTION DECLARING A COUNCIL VACANCY

WHEREAS, Tualatin Charter Section 32 provides a position on the City Council becomes vacant upon a Councilor's resignation from office and the declaration of vacancy by the City Council; and

WHEREAS, City Councilor Jeff DeHaan notified the City of his resignation from City Council Position #3.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Council accepts the resignation of Jeff DeHaan from City Council and declares City Council Position #3 vacant.

Section 2. This resolution is effective upon adoption.

ADOPTED this 8th day of October, 2018.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder